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CALIFORNIA RAILROAD COMMISSION DECISIONS.

DECISION No. 9930.

IN THE MATTER OF THE INVESTIGATION OF THE OPERATIONS,
RULES AND PRACTICES OF UNITED STAGES, INCORPORATED,
AND OF THE MORGAN MOTOR COMPANY, A CORPORATION.

Case No. 1473.

Decided December 27, 1921.

AUTO STAGE—OPERATIVE RIGHTS.—It is held that United Stages, Incorporated, although incorporated subsequent to May 1, 1917, the effective date of the statute for regulation of auto stages by this Commission, holds operative rights by reason of the operation of Morgan Motor Company, H. H. Morgan and Thomas E. Morgan, who were operating under the name of United Stages. The finding is made that certain individual drivers, who operated with Morgan Brothers, lost their identity as independent operators, either by abandoning their operations or admittedly becoming employees of the Morgans.

S. W. Thompson and H. J. Bischoff, for United Stages, Incorporated.

H. W. Kidd and Harry A. Enckell, for O. R. Fuller and Motor Transit Company.

Douglas Brookman and Clyde Bishop, for A. B. Watson.

Frank Karr, H. R. Miller and O. A. Smith, for Pacific Electric Railway Company.

Hill and Lee, for O. E. Hadley et al.

Warren E. Libby, for Pickwick Stages and White Star Auto Stages.

C. F. Wren, for Pickwick Stages—Northern Division.

F. E. Watson, for Southern Pacific Railroad Company.

E. W. Camp and Paul Burke, for The Atchison, Topeka and Santa Fe Railway Company.

W. J. Williams, for Compton Transportation Company.

BY THE COMMISSION.

OPINION.

This is a case instituted on the Commission's own motion to determine the nature and extent of the operations of the Morgan Motor Company and United Stages, Incorporated, as transportation companies, and to investigate the operations, rules and practices of such companies.

The necessity for the proceeding arose from the fact that United Stages, Incorporated, applied for authority to transfer to O. R. Fuller its operative rights as a transportation company between the termini of Los Angeles and San Diego, Application No. 5735, and indicated therein that such transfer included the right to carry on local operations between Los Angeles and Long Beach and between Long Beach and Santa Ana which were not shown in either of the tariffs or time schedules of the United Stages, Incorporated, or its predecessor in interest, on file with this Commission May 1, 1917, and as to which

there was no evidence in the records or files of the Railroad Commission of an operative right held by the transferror. It was deemed expedient and in the interest of sound regulation that the Commission should ascertain and define exactly what operative rights the United Stages, Incorporated, held by reason of operations in good faith on May 1, 1917, and what have been subsequently acquired by such company under the sanction of the Commission. Final determination on Application No. 5735 was accordingly held up pending final conclusion in this proceeding initiated on the Commission's own motion.

The Commission's order instituting the investigation took the form of an order to show cause directed to United Stages, Incorporated, and the Morgan Motor Company, in which they were required to appear and show cause, if any they had, why they should not be ordered to desist from operating as a transportation company. In their return to this order these stage companies set forth at length the operative rights claimed by them, and also made an application whereby they asked that in the event the Commission should find that by reason of any technicality they were not legally entitled to the operative rights thus claimed, they should be granted a certificate of public convenience and necessity for the continued operation of their stage lines as to the particular routes enumerated in the application.

Appearance was made and a complaint filed in this proceeding on behalf of E. C. Willis et al., setting forth that Willis and his co-plaintiffs had, on and prior to May 1, 1917, owned and operated stages as individual operators but using in common the fictitious name "United Stages," over certain portions of the route now claimed by the United Stages, Incorporated, in Imperial Valley and between the valley and San Diego, and between San Diego and Los Angeles. It was claimed by these parties that any operative rights which the Commission should now recognize by reason of operations in good faith on May 1, 1917, within the meaning of chapter 213, Statutes of 1917, were those of individual operators and not of the United Stages, Incorporated, or its predecessors in interest. Appearance was also made on behalf of Pacific Electric Railway Company to contest the recognition of any operative rights of United Stages, Incorporated, between the termini of Los Angeles and Long Beach, and on behalf of Crown Stages to contest the recognition of operative rights to handle local traffic between Long Beach and Santa Ana and between Los Angeles and Santa Ana. Other appearances were entered on behalf of Pickwick Stages and Pickwick Stages—Northern Division, the Southern Pacific Company and The Atchison, Topeka and Santa Fe Railway Company and Compton Transportation Company.

Public hearings were held at Los Angeles and El Centro, California, at which a number of witnesses testified and exhibits were filed touching all phases of the proceeding. Briefs were then filed on behalf of some of the parties and the matter was finally submitted, and is now ready for decision.

The following issues are presented:

1. Whether the United Stages, Incorporated, has any operative rights by reason of operations being actually carried on in good faith on May 1, 1917, by its predecessor in interest as to the routes in the Imperial Valley and elsewhere over which the operative right is claimed by E. C. Willis and his associates.

2. Whether the United Stages, Incorporated, has an operative right between Los Angeles and Long Beach and between Long Beach and Santa Ana by reason of operations actually carried on in good faith on May 1, 1917, by its predecessor in interest.

3. Whether the United Stages, Incorporated, has an operative right to engage in local business between intermediate points on the route from Los Angeles to San Diego.

4. Should a certificate now be issued declaring that public convenience and necessity require the operation by United Stages, Incorporated, of auto stages as prayed for in its application filed herein?

The record shows that "The Morgan Motor Company" was incorporated and its articles filed in Imperial County April 4, 1913. The stock ownership and control of the corporation has always been held by Thomas E. Morgan and his brothers. Only a few shares were held by others. The articles of incorporation of "The United Stages" were filed in Imperial County October 8, 1915. By judgment of the Superior Court of Imperial County rendered July 13, 1917, under Case No. 3840, the last named corporation was dissolved. Thereafter, on August 1, 1917, there was filed in Imperial County the articles of incorporation of a newly formed company under the same name, "The United Stages."

In the absence of any other evidence, it would appear from this that any operative rights held by the corporation, "The United Stages," on May 1, 1917, lapsed with the dissolution of that corporation in July, 1917, and that the second corporation, "The United Stages," which completed its organization subsequent to May 1, 1917, could not claim any operative rights by reason of operations in good faith on May 1, 1917. It was contended, however, and the evidence supports this contention, that the Morgan Motor Company and its principal officers acting on its behalf did in fact own and operate auto stages on and prior to May 1, 1917, under the name "United Stages." It further appears that the Morgan Motor Company, by proper legal proceedings,

has changed its name to that of United Stages, Inc., and by authorization of this Commission on the twenty-seventh day of February, 1920, has adopted the schedule and tariffs on file with the Commission under the name of the United Stages.

The history of the operations of this stage line further shows that the use of the name "United Stages," under which the operations were conducted on and prior to May 1, 1917, is not inconsistent with the conclusion that the Morgan Motor Company was, in fact, a transportation company conducting such operations.

Following the not uncommon trend of many auto stage companies in the early history of their development, a number of individual auto stage operators in the Imperial Valley mutually agreed to combine their operations for better regulation and more efficient management under the fictitious name of "United Stages." Among those individuals were the protestant, Willis, and his associates and Thomas E. Morgan and H. H. Morgan, the principal officers of the Morgan Motor Company. Thomas E. Morgan was recognized as the general manager of the operations thus carried on. He arranged for the stopping places to be used as stage depots, for the printing of tickets and, to some extent supervised the time schedules and routes to be followed by the various individuals joining in this operation. This was two or three years prior to the enactment of the statute for regulation of auto stages by this Commission (Statutes 1917, chapter 213). Competition between stage operators was keen and methods somewhat unscrupulous. It was, therefore, concluded to form a corporation called "The United Stages," under the belief that by this means outsiders would be prevented from using the name "United Stages," which had become recognized as a valuable asset by the individuals participating in this combined operation. The corporation of this name was thus formed and its articles, as above stated, filed in Imperial County on October 8, 1915. This corporation did not, in fact, transact any business or own any property, but existed only in name until its dissolution in July, 1917.

At the time auto stage companies were first required to file their schedules and tariffs with the Railroad Commission, Thomas E. Morgan was given power of attorney to file, on behalf of the stage drivers, some of whom appear here as protestants, their tariffs and time schedules. Apparently, the only filing made pursuant to this authorization was the original time schedules and tariffs of the United Stages. No filings were made in the names of the individual operators. Powers of attorney thus given were limited to six months from the date of their execution, and expired in the latter part of the year 1917. Thereafter, none of the stage drivers (including the protestants in this case) filed schedules or tariffs as individual operators, and took no steps to assert

their claim to operative rights by reason of operations carried on in good faith on May 1, 1917, until the commencement of this proceeding.

It is clear from the evidence that a stage line was operating in good faith as a transportation company on May 1, 1917, over the routes designated by the tariffs and time schedules on file with the Commission on that date, and that such operations were being carried on under the name of United Stages, and under the management and supervision of Thomas E. Morgan. The management and control of Thomas E. Morgan over United Stages has been continuous and, as time progressed, has become more definite. It appears that he developed and built up the business by inducing the owners of cars to operate these cars as stage drivers under his direction and management, paying their own expenses and, in a large measure, making their own collections, but contributing an agreed amount or percentage of receipts to Mr. Morgan for the privilege of operating on the lines of the United Stages, using its terminal facilities and tickets and sharing the benefits of that management. Both the Morgan Motor Company and the Morgan brothers individually were participating in these operations on May 1, 1917.

Regardless of whether or not the individual stage operators may now equitably claim a share in the value of the transportation business created under the name United Stages or in the profits derived therefrom—which we believe to be a matter for settlement in the civil courts—it is sufficiently clear from the evidence herein that the Morgan Motor Company, H. H. Morgan and Thomas E. Morgan, were actually operating in good faith as a transportation company under the name United Stages over the routes indicated in the tariffs and time schedules on file with this Commission on that date. Furthermore, it is shown that operations of the Morgan Motor Company, thus established, have not lapsed by subsequent abandonment. The same is not true, however, as to the rights, if any, of the individual stage drivers. The evidence shows that, regardless of whether or not these individuals were operating in their own right, or on behalf of Thomas E. Morgan or of the Morgan Motor Company on May 1, 1917, they have subsequently abandoned their operations or admittedly become employees of Morgan or the Morgan Motor Company.

Concerning the question of right to operate via Long Beach, it is our conclusion that, on and prior to May 1, 1917, neither United Stages, Incorporated, Morgan Motor Company, nor the predecessor in interest of either, was actually operating in good faith as a transportation company between the termini of San Diego and Los Angeles, as to that portion of the route from Santa Ana to Los Angeles via Long Beach. While there was some evidence of trips having been made via Long Beach, it appears that the operation over this portion

of the route was not the usual or ordinary operation of the stages between Los Angeles and San Diego. There was evidence to the effect that the individual stage drivers were permitted to go by way of Long Beach, and that they occasionally did so. None of the proceeds from such business was received by the stage company, all of it going to stage drivers or owners of cars operating for the company on a commission basis. The first time schedule and tariff C. R. C. No. 1 of United Stages, under which operations were being conducted on May 1, 1917, do not show Long Beach as an intermediate stopping point between Los Angeles and San Diego, nor any rates applicable to such local business. It is proper to conclude, therefore, that United Stages, so called, had not, on or prior to May 1, 1917, undertaken to render this Long Beach service, nor was it, on May 1, 1917, holding itself out to the public to render such service, nor actually engaged in the bona fide operation of automobile stages between the points in question. Later time schedules and tariffs, showing rates and schedules pertaining to Long Beach, are unsupported by any showing of an operative right as to the operations between Santa Ana and Los Angeles via Long Beach. It will, therefore, be necessary for corrections to be made by the operating company in such schedules and tariffs.

In dealing with the question of the company's right to engage in local business between intermediate points on the Los Angeles and San Diego route, the same test is applicable as in the case of the Long Beach operations. The only operative rights claimed are by reason of operations carried on in good faith on and prior to May 1, 1917. A determination must, therefore, be made as to what business the company was actually doing on May 1, 1917, and what service it had undertaken to render and was holding itself out to render to the public.

It should be first pointed out that the absence of an operative right between Santa Ana and Los Angeles via Long Beach does not necessarily mean that the company was not legally operating into Los Angeles. The evidence shows that on and prior to May 1, 1917, the company was actually operating in good faith between Los Angeles and San Diego, using alternative routes between Los Angeles and Santa Ana, by the way of the Whittier road and by way of the Telegraph road. These two routes diverge at a point near the city limits of Los Angeles and come together again at or near Santa Ana, from which place the route is identical over what is known as the Coast Highway to San Diego.

Both the time schedule and tariff C. R. C. No. 1 of United Stages, under which operations were being conducted on May 1, 1917, show the following intermediate stops proceeding northward from San Diego to Los Angeles: La Jolla, distant 14 miles from San Diego; thence to Del Mar, 11 miles; to Cardiff, 4 miles; Encinitas, 2 miles; Carlsbad,

9 miles; Oceanside, 3 miles; Capistrano, 38 miles. Between Capistrano (also known as San Juan Capistrano) and Los Angeles, a distance of 58 miles, no intermediate stops are shown. The testimony of stage drivers and officials of the stage company was to the effect that on and prior to May 1, 1917, the company was undertaking to render only a through service between Los Angeles and San Diego, or between Los Angeles and points south of Capistrano, as shown on the time schedule and tariff. Evidence of actual operations on and prior to May 1, 1917, shows only a slight variation from this undertaking. No tickets were sold or reservations made for transportation between Los Angeles and any intermediate points north of Capistrano, or between any of such intermediate points themselves. However, reservations could be made, and were, in fact, made in the regular course of business by persons desiring to board the stage at such intermediate points for transportation to Capistrano or points south thereof. Similarly, passengers were frequently hauled from San Diego to points north of Capistrano, which were not shown on the schedule. It further appears, however, that persons transported between San Diego and points north of Capistrano were charged the same fare as between San Diego and Los Angeles. The record also shows that the stage drivers occasionally picked up and carried local passengers anywhere along the line when seats were available, charging a cash fare and keeping the money thus collected. It was the recognized right of all stage drivers, except those operating on a salary basis instead of a commission basis, to keep the cash fares paid by local pick-up passengers. Since the majority of stage drivers, on and prior to May 1, 1917, were not employed on a salary basis, it is apparent that any compensation received by the company from such local business was of a most casual and haphazard sort.

The foregoing references to the record point to the conclusion that the United Stages had not, on and prior to May 1, 1917, undertaken to render a local service between Los Angeles and Capistrano. From all the evidence herein, the Commission finds that the United Stages, Incorporated, or its predecessor in interest, was not "actually operating in good faith on May 1, 1917," automobiles or auto stages for the transportation of passengers as a common carrier for compensation between intermediate points from Los Angeles to Capistrano on its regular route or routes from San Diego to Los Angeles, or between any such intermediate points and the terminus of Los Angeles.

We further find that this company, or its predecessor, was, on and prior to May 1, 1917, actually operating in good faith as such common carrier between the termini of Los Angeles and San Diego and such intermediate points as are shown and designated on the time schedule and tariff in effect on that date; also, between all points intermediate

between Los Angeles and Capistrano on the one hand, and San Diego and other stations as shown by the above-mentioned time schedule and tariff between San Diego and Capistrano on the other hand.

There remains for consideration the application of United Stages, Incorporated, for a certificate of public convenience and necessity. This application was filed with its return to the order to show cause herein, and asked that in the event of a failure to find that United Stages was actually operating in good faith on May 1, 1917, over the routes claimed, or, in the event of a finding that the company, for technical irregularities or any other reason, has waived or forfeited its right to operate over such routes, the Commission should issue a certificate declaring that public convenience and necessity require such operations. We find upon uncontradicted evidence that United Stages, Incorporated, or its predecessor, in addition to its operation between Los Angeles and San Diego as described above, was actually operating in good faith on May 1, 1917, its automobiles and auto stages for the transportation of persons as a common carrier for compensation on the public highways of the state between the termini and over the routes described as follows:

1. *Santa Barbara division*: Between Los Angeles and Santa Barbara, via the following route and serving the following intermediate points: Los Angeles, thence via Caluenga Pass, Ventura boulevard, Encino Acres, Calabasas, Newberry Park, Triunfo, Conejo, Camarillo, Oxnard, El Rio, Ventura, Rincon, Carpinteria to Santa Barbara.

2. *Santa Paula division*: Between Los Angeles and Santa Paula, via the following route and serving the following intermediate points: Los Angeles, thence via Caluenga Pass, Universal City, Lankershim, San Fernando, Newhall, Saugus, Castaic, Piru, Fillmore and to Santa Paula.

3. *El Centro division*: Between San Diego and El Centro, via the following route and serving the following intermediate points: San Diego, via Dulzura, Potrero, Campo, Warrens Ranch, Boulevard, Jacumba, Mountain Springs, Coyote Wells, Dixie Land, Seeley, to El Centro.

4. *Imperial Valley local division*: From El Centro to Calexico, via Heber, and serving all local points and traffic; El Centro to Brawley, via Imperial, and serving all local points and traffic; Brawley to Calipatria, via Rockwood, and serving all local points and traffic.

The application for certificate does not include the route between San Diego and Los Angeles, concerning which an issue was raised as to their operative rights. We are, therefore, precluded from considering in this proceeding whether public convenience and necessity at the present time requires the operation by this transportation company of its auto stages for local transportation between the termini of Los Angeles and San Diego, which they were not actually doing on May 1, 1917. In view of this fact and the above finding, the application will be denied without prejudice.

ORDER.

An investigation having been instituted on the Commission's own motion into the operations, rules and practices of United Stages, Incorporated, and of Morgan Motor Company, a corporation, as the same were carried on and in effect on May 1, 1917, and subsequent thereto, and an order to show cause issued, requiring United Stages, Incorporated, and Morgan Motor Company to show cause why they should not be required to cease operations and to desist from further operating as a transportation company on any public highway in this state, and a return to the said order to show cause, together with an application having been filed by United Stages, Incorporated, a corporation—the corporate name of which was formerly that of Morgan Motor Company—asking that a certificate be issued declaring that public convenience and necessity require the operation by said United Stages, Incorporated, between certain termini and intermediate points named in said application; public hearings having been held thereon, formal appearances made and protests filed by various interested parties, testimony and other evidence having been received and the matters submitted—

The Railroad Commission hereby finds:

1. That United Stages, Incorporated, a corporation—the corporate name of which was formerly Morgan Motor Company—was, in good faith, on May 1, 1917, actually operating automobiles and auto stages for the transportation of persons, as a common carrier for compensation, on the public highways of this state, between fixed termini and over regular routes, as follows:

1. *Santa Barbara division*: Between Los Angeles and Santa Barbara, via the following route and serving the following intermediate points: Los Angeles, thence via Cahuenga Pass, Ventura boulevard, Encino Acres, Calabasas, Newberry Park, Triunfo, Conejo, Camarillo, Oxnard, El Rio, Ventura, Rincon, Carpinteria, to Santa Barbara.

2. *Santa Paula division*: Between Los Angeles and Santa Paula, via the following route and serving the following intermediate points: Los Angeles, thence via Cahuenga Pass, Universal City, Lankershim, San Fernando, Newhall, Saugus, Castaic, Piru, Fillmore and to Santa Paula.

3. *El Centro division*: Between San Diego and El Centro, via the following route and serving the following intermediate points: San Diego, via Dulzura, Potrero, Campo, Warrens Ranch, Boulevard, Jacumba, Mountain Springs, Coyote Wells, Dixieland, Seeley, to El Centro.

4. *Imperial Valley, local division*: From El Centro to Calexico, via Heber, and serving all local points and traffic; El Centro to Brawley, via Imperial, and serving all local points and traffic; Brawley to Calipatria, via Rockwood, and serving all local points and traffic.

5. *San Diego-Los Angeles division*: Between San Diego and Los Angeles and the following intermediate points: La Jolla, Del Mar, Cardiff, Encinitas, Carlsbad, Oceanside and Capistrano, as shown and designated on the time schedule and tariff in effect May 1, 1917, via the Coast Highway—San Diego to Santa Ana—thence via the so-called Whittier Road or via the Telegraph Road, as alternate routes between

Santa Ana and Los Angeles; also between all points intermediate between Los Angeles and Capistrano on the one hand, and San Diego and other stations above named, as shown by said time schedule and tariff between San Diego and Capistrano, on the other.

2. That said United Stages, Incorporated, was not, in good faith, on or prior to May 1, 1917, actually operating any automobile, jitney bus, auto truck, stage or auto stage for the transportation of persons or property as a common carrier for compensation on the public highways of this state between the termini of Santa Ana and Long Beach, or between Long Beach and Los Angeles, or between Los Angeles and any intermediate point between Los Angeles and Capistrano, or between any such intermediate points:

And basing its order upon said findings and the further findings and statements of fact contained in the opinion preceding this order;

It is hereby ordered, that United Stages, Incorporated, cease operating and desist from further operating as a transportation company over the routes and between the termini described as follows:

(a) Between the termini of Santa Ana and Long Beach and intermediate points.

(b) Between the termini of Long Beach and Los Angeles and intermediate points.

(c) Between the termini of Los Angeles and a point distant one mile from the post office of San Juan Capistrano toward Los Angeles on the Coast Highway and any intermediate points; provided, however, that nothing herein shall be deemed to preclude or prohibit the operation by said United Stages, Incorporated, as a transportation company between the termini of Los Angeles and San Diego as to operations which said company was actually carrying on in good faith on May 1, 1917, as set forth in the above findings.

It is further ordered, that United Stages, Incorporated, shall, within five (5) days from the effective date of this order, cause to be filed with this Commission new tariffs and time schedules or supplements to existing tariffs and time schedules canceling all schedules and rates pertaining to the operations set forth in the preceding paragraph of this order.

It is further ordered, that the application of United Stages, Incorporated, for certificate of public convenience and necessity filed herein on the twenty-seventh day of October, 1920, be and the same is hereby denied without prejudice.

The effective date of this order is hereby fixed and designated as the twelfth day of January, 1922.

Dated at San Francisco, California, this twenty-seventh day of December, 1921.

DECISION No. 9931.

IN THE MATTER OF THE APPLICATION OF UNITED STAGES, INCORPORATED, TO SELL, AND OF O. R. FULLER TO PURCHASE, CERTAIN FRANCHISE RIGHTS TO OPERATE AN AUTOMOBILE STAGE LINE BETWEEN LOS ANGELES AND SAN DIEGO.

Application No. 5735.

Decided December 27, 1921.

BY THE COMMISSION.

OPINION.

This is an application to authorize the sale and transfer by United Stages, Incorporated, to O. R. Fuller of certain personal property particularly described in Exhibit "A" attached to the application, and of operative rights, franchises and permits held and used by United Stages, Incorporated, in its operations as a transportation company between Los Angeles and San Diego, California. The operative rights claimed by said United Stages, Incorporated, sought to be transferred are also fully described in Exhibit "A" attached to the application.

This proceeding was consolidated for hearing with Case No. 1473, which was an investigation on the Commission's own motion into the operations, rules and practices of United Stages, Incorporated, and of Morgan Motor Company, a decision in which was heretofore rendered on the twenty-seventh day of December, 1921. Formal protests were filed by Compton Transportation Company and by A. B. Watson, owner and operator of the Crown Stage Line. A complaint in intervention was filed on behalf of Frederick Ernesting and others, urging that the operative rights sought to be transferred really belonged to the complainants in that case, and setting forth the same reasons in support of this claim as were urged in the protests of E. C. Willis and others in Case No. 1473, above referred to. The claims of both the protestants and of the intervenors are disposed of in the decision in Case No. 1473, to which reference will be made in the order in this application. Public hearings were held before Examiner Gordon, evidence received, and the matter having been submitted is now ready for decision.

The purpose sought to be accomplished by the proposed transfer is a consolidation under one management and ownership of the auto stage operations between Los Angeles and San Diego. The evidence herein justifies the conclusion that it is in the public interest that the transfer be made of such operative rights as the United Stages, Incorporated, had for its operations as a transportation company between Los Angeles and San Diego. These rights are determined and fixed by Decision No. 9930 in Case No. 1473.

ORDER.

Application having been made by United Stages, Incorporated, to sell, and O. R. Fuller to purchase, certain personal property and operative rights to operate an automobile stage line between Los Angeles and San Diego, California, public hearings having been held thereon, and the matter submitted and being now ready for decision;

It is hereby ordered, that authorization be and the same is hereby given to United Stages, Incorporated, to sell and transfer to O. R. Fuller all or any part of the personal property, described on page 1 of Exhibit "A" attached to the application filed herein May 24, 1920, being also such operative rights, franchises or permits heretofore held and used by said United Stages, Incorporated, in its operations as a transportation company over the routes and between the termini described as follows:

Between the termini of San Diego and Los Angeles and such intermediate points as are shown and designated on the time schedule and tariff of United Stages, Incorporated, in effect May 1, 1917, and over the route known as the Coast Highway to San Diego and Santa Ana, thence via the so-called Whittier Road or via the Telegraph Road as alternate routes between Santa Ana and Los Angeles; also between all points intermediate between Los Angeles and Capistrano on the one hand and San Diego and other stations, as shown by said time schedule and tariff between San Diego and Capistrano, on the other.

The authorization herein given is subject to the following terms and conditions:

Applicant, United Stages, Incorporated, shall, within ten (10) days from the effective date of this order, cancel all tariffs and time schedules on file pertaining to the operative rights herein authorized to be transferred, such cancellation to be in accordance with General Order No. 51 and other regulations of this Commission; and O. R. Fuller, the purchaser, shall cause to be filed within ten (10) days from the effective date of this order in his own name tariffs and time schedules identical with the tariffs and time schedules of United Stages, Incorporated, as amended pursuant to the order of the Commission heretofore made in its Decision No. 9930 in Case No. 1473.

The rights and privileges herein authorized to be transferred may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

No vehicle may be operated by applicant, O. R. Fuller, unless such vehicle is owned or leased by him for a specified amount on a trip or term basis, the leasing of equipment not to include the services of a driver or operator. All employment of drivers or operators of leased

cars shall be made on the basis of a contract by which the drivers or operators shall bear the relation of employees to the transportation company.

The effective date of this order is hereby fixed and designated as the twelfth day of January, 1922.

Dated at San Francisco, California, this twenty-seventh day of December, 1921.

DECISION No. 9932.

IN THE MATTER OF THE APPLICATION OF BUTTE MEADOWS TELEPHONE AND TELEGRAPH COMPANY FOR ADJUSTMENT OF RATES.

Application No. 6992.
Decided December 27, 1921.

Bond and Deirup, by *Harry Deirup*, for Applicant.

BY THE COMMISSION.

OPINION.

J. W. Roper, applicant in this proceeding, owns and conducts a summer resort at Butte Meadows, Butte County, California, approximately thirty miles from the city of Chico. The Pacific Telephone and Telegraph Company, doing a general telephone and telegraph business throughout the Pacific Coast, owns and operates a telephone exchange in the city of Chico. For his convenience in the conduct of his resort, and for the convenience of the patrons of the resort and the general public, applicant a number of years ago constructed a telephone line between Butte Meadows and Chico, and has operated this line under the name of Butte Meadows Telephone Company. This name he now desires to change to Butte Meadows Telephone and Telegraph Company, which hereinafter will be referred to as the company. The company connects at Chico with the lines of the Pacific Telephone and Telegraph Company, and also has installed telephones and offers service to the public, at points between Butte Meadows and Chico; to wit: at Denny Murphy's, designated as "Berdan," at Royal Drift Mining Co., designated as "Royal Drift," at J. H. Lucas's, designated as "Lomo," and at W. W. Waite's, designated as "West Branch." Near Butte Meadows the company connects with a line owned by F. H. Mickey and E. B. Copeland, which line extends from Butte Meadows to Jonesville, a distance of six miles, more or less.

Prior to January 21, 1919, company had in effect a rate of 25 cents for three minutes and 5 cents for each additional minute or fraction thereof for all messages passing over its line between Butte Meadows

and Chico, and intermediate points. Since that date the rate charged between Butte Meadows and Chico has been 35 cents for three minutes plus 10 cents for each additional minute or fraction thereof. For all points between Chico and Butte Meadows a charge has been made of \$3 per month, which covered all charges for all messages from these points to Chico or to any other point on the line—messages from Chico to these points being charged for at the rate of 25 cents for three minutes and 10 cents for each additional minute or fraction thereof.

By this method of operating, company conducts its line as a subscriber's line at a regular monthly rental for all points between Butte Meadows and Chico as to all business terminating at Chico, while for business going in the opposite direction, that is, originating at Chico, the line is operated as a toll line. The Pacific Telephone and Telegraph Company collects the same charge for all calls originating at points on Pacific Company lines and destined to points on company's line that it collects for calls originating at the same points and destined for subscribers on its local exchange at Chico, no charge of any nature being made for the use of the company's line in such cases.

To remove these differences in rates and charges, company desires to operate its line exclusively as a toll line and to put into effect the following schedule of rates:

Schedule of Toll Rates Between Points Listed Below.

Station-to-Station Calls.

	Initial rate	No. of minutes	Additional charge
Butte Meadows—			
Chico	\$0 25	5	\$0 05—1 minute
Berdan	15	5	05—2 minutes
Royal Drift	15	5	05—2 minutes
Jonesville	10	5	05—3 minutes
Lomo	10	5	05—3 minutes
West Branch	10	5	05—3 minutes
Berdan—			
Chico	15	5	05—2 minutes
Butte Meadows	15	5	05—2 minutes
Jonesville	15	5	05—2 minutes
Lomo	10	5	05—3 minutes
West Branch	10	5	05—3 minutes
Royal Drift	10	5	05—3 minutes
Royal Drift—			
Chico	15	5	05—2 minutes
Butte Meadows	15	5	05—2 minutes
Jonesville	15	5	05—2 minutes
Lomo	10	5	05—3 minutes
West Branch	10	5	05—3 minutes
Berdan	10	5	05—3 minutes
Jonesville—			
Chico	30	3	10—1 minute
Berdan	15	5	05—2 minutes
Royal Drift	15	5	05—2 minutes
Butte Meadows	10	5	05—3 minutes
Lomo	10	5	05—3 minutes
West Branch	15	5	05—2 minutes
Lomo—			
Chico	25	5	05—1 minute
Berdan	10	5	05—3 minutes
Royal Drift	10	5	05—3 minutes
Butte Meadows	10	5	05—3 minutes
Jonesville	10	5	05—3 minutes
West Branch	10	5	05—3 minutes
West Branch—			
Chico	20	5	05—2 minutes
Berdan	10	5	05—3 minutes
Royal Drift	10	5	05—3 minutes
Butte Meadows	10	5	05—3 minutes
Jonesville	15	5	05—2 minutes
Lomo	10	5	05—3 minutes
Chico—			
Berdan	15	5	05—2 minutes
Royal Drift	15	5	05—2 minutes
Butte Meadows	25	5	05—1 minute
Lomo	25	5	05—1 minute
West Branch	20	5	05—2 minutes
Jonesville	30	3	10—1 minute

Person-to-Person, Appointment and Messenger Calls.

Initial station-to-station rate	Corresponding rate for—		
	Person-to-person calls	Appointment and messenger calls	Report charge
\$0 10	\$0 15 (3) \$0 05	\$0 20 (3) \$0 05	\$0 05
15	20 (3) 05	25 (3) 05	10
20	25 (3) 05	30 (3) 10	10
25	30 (3) 10	35 (3) 10	10
30	40 (3) 10	45 (3) 15	10

Telegraph Service.

Telegrams—30 cents, 10 words; 25 cents each additional word.

Day letters—45 cents, 50 words or less; 9 cents each additional 10 words or less.

Night letters—30 cents, 50 words or less; 6 cents each additional 10 words or less.

For service to points on the lines of The Pacific Telephone and Telegraph Company through joint rates to be quoted.

Rental Guarantee.

A guarantee of \$3 per month is proposed for the toll stations listed as Berdan, Royal Drift, Jonesville, Lomo, and West Branch.

A public hearing was held in Chico on October 5, 1921, before Examiner Satterwhite. There was no protest against the proposed rates.

It will be seen that the rates herein proposed include a complete schedule for the station at Jonesville. As the line between Butte Meadows and Jonesville does not belong to the company, it is manifest that rates governing this line can not be established as part of the present proceeding, and also further, since the line to Jonesville appears to have been constructed since March 23, 1912, the owners must make formal application to the Commission for a certificate of public convenience and necessity authorizing the operation of this line as a public toll line before any charge whatsoever will be authorized.

The rates herein proposed are lower than the rates at present in effect for toll messages. It can not be determined, however, to what extent the cost of service to those stations which are now paying a flat charge of \$3 per month will be affected.

The irregularities heretofore existing should of course be removed. The rates proposed by applicant will accomplish such removal, and they are uniform with rates at present in effect elsewhere for similar service. The Pacific Telephone and Telegraph Company has expressed its willingness to enter into a suitable agreement with the applicant for the interchange of service between its system and applicant's line.

Applicant proposes a charge of \$3 per month, to be known as "rental guarantee." This charge appears to be reasonable, but should be called "toll guarantee." It is further understood that under the

application of this charge each station paying this guarantee shall be entitled to toll service over the line of the company each month to the extent of \$3 at the authorized toll rates, and that until any station shall have had a sufficient number of toll calls at the authorized rates to use up the amount of the monthly guarantee, no additional charge shall be made.

ORDER.

J. W. Roper, owning and operating a telephone line between Butte Meadows and Chico, Butte County, under the name of Butte Meadows Telephone and Telegraph Company, having applied to the Railroad Commission for authority to adjust rates, a public hearing having been held, the Commission being fully apprised and it appearing that the application should be granted;

It is hereby ordered, that applicant is hereby authorized to publish, file with the Railroad Commission, and make effective on and after thirty days from the date of this order the schedule of rates set forth in the opinion preceding this order in so far as they relate to stations on applicant's own line.

Dated at San Francisco, California, this twenty-seventh day of December, 1921.

DECISION No. 9936.

IN THE MATTER OF THE COMPLAINT OF A. HANCOCK, C. S. FILLMORE, E. E. RANKIN AND OVER TWENTY-FIVE OTHERS

vs.

EAST SIDE CANAL COMPANY, KERN ISLAND IRRIGATING CANAL COMPANY AND THE KERN COUNTY CANAL AND WATER COMPANY.

Case No. 1250.

Decided December 29, 1921.

WATER UTILITY—EQUALITY OF DISTRIBUTION—MAXIMUM SERVICE.—It is held to be a fundamental principle of public utility regulation that all consumers be placed on a basis of equality and that the total available supply of the utility, such as a water company, must be distributed equally among all consumers up to the maximum point of serving to consumers the amount of water reasonably required for their use.

MAXIMUM CAPACITY.—Provision is made by chapter 80 of the Statutes of 1913 for a determination by the Commission, after proper hearing, of the extent to which a water company has reached its maximum capacity of service beyond which it can not go in taking on new consumers to the detriment of those already served.

BY THE COMMISSION.

SUPPLEMENTAL OPINION AND ORDER.

The Commission's opinion and order on rehearing was rendered June 30, 1921. Thereafter, on September 24, 1921, there was filed by the defendant, Kern Island Irrigating Canal Company, a petition for rehearing and for modification of the order of June 30, 1921, Decision No. 9195.

Informal conferences were held before the Commission by attorneys representing the parties on the questions presented by the petition and thereafter a formal public hearing thereon was duly had on December 28, 1921, and the matter submitted.

The portion of the order sought to be modified provides as follows:

That Kern Island Irrigating Canal Company be and it is hereby directed to deliver to East Side Canal Company for resale by that company to its consumers, a minimum of 25,500 acre-feet of water per year; provided, however, that in years of drought and consequent shortage of water supply, the amount delivered shall be decreased only in proper ratio to the decrease in supply, and in years in which an increased supply is available, the quantity of water delivered shall be increased and equitably prorated among all consumers.

The petition seeks a modification of the item of the order above quoted only in so far as it deals with the distribution of water in years of drought and consequent shortage of water supply and in years in which increased supply is available.

We believe it is clear, as shown by the opinion preceding the order, that the provision for decreasing the amount delivered in times of shortage "only in proper ratio to the decrease in supply" necessarily and properly refers only to the supply of the Kern Island Irrigating Canal Company available for distribution to its public utility consumers. However, an amendment of the form of this order in this respect to more clearly state the meaning as thus interpreted will be made.

As to that portion of the order dealing with the distribution in years of increased supply, we are convinced that a substantial modification is necessary. This is a proceeding initiated by complaint by the consumers of one distributing company, the East Side Canal Company, which, as the record shows, is only one of a number of public utility consumers of the Kern Island Irrigating Canal Company. All the public utility consumers of the Kern Island Company were not made parties to the proceeding, nor does the record show nor the order purport to fix the basic or normal supply to which such other consumers were entitled. In the case of East Side Canal Company this was done and the amount of 25,500 acre-feet per year was fixed as the amount to which they are entitled. In making any order dealing with surplus water or with "increased supply" the interests of all consumers are necessarily affected. It is a fundamental principle

of public utility regulation that all consumers be placed on a basis of equality and that the total available supply of the utility, such as a water company, must be distributed equally among all consumers up to the maximum point of serving to consumers the amount of water reasonably required for their use. Provision is made by chapter 80 of the Statutes of 1913 for a determination by the Commission, after proper hearing, of the extent to which a water company has reached its maximum capacity of service beyond which it can not go in taking on new consumers to the detriment of those already served.

The order in question could legally deal with the distribution of increased supply only to the extent of requiring the utility to furnish a maximum amount to guarantee reasonable service to all its consumers. As above pointed out, it is necessary that before making such an order all the consumers be brought in as parties and full consideration given to the amount normally required by each consumer. Since this proceeding was never extended to do this, it is proper that any reference to the distribution of increased supply be eliminated. The Commission recommends, however, that another proceeding be instituted for a proper determination of the normal amounts to which all public utility consumers of this company are entitled and the equitable basis upon which any increased supply should be distributed.

ORDER.

There having been filed herein, on the twenty-fourth day of September, 1921, by the defendant, Kern Island Irrigating Canal Company (referred to in said petition as the Kern Island Canal Company), a petition for a rehearing on and modification of the order heretofore made herein June 30, 1921, Decision No. 9195, a public hearing having been held thereon and the matter submitted:

Now, therefore, good cause appearing:

It is hereby ordered, that Item 4 of the order heretofore made June 30, 1921, Decision No. 9195, as follows:

4. That Kern Island Irrigating Canal Company be and it is hereby directed to deliver to East Side Canal Company for resale by that company to its consumers, a minimum of 25,500 acre-feet of water per year; provided, however, that in years of drought and consequent shortage of water supply, the amount delivered shall be decreased only in proper ratio to the decrease in supply, and in years in which an increased supply is available, the quantity of water delivered shall be increased and equitably prorated among all consumers.

be, and the same is hereby, modified to read as follows:

4. That Kern Island Irrigating Canal Company be and it is hereby directed to deliver to East Side Canal Company, for resale by that Company to its consumers, a minimum of 25,500 acre-feet of water per year; provided, however, that in years of drought and consequent

shortage of water supply the amount delivered shall be decreased only in proportion to the decrease in supply available for distribution to the public utility consumers of the said Kern Island Irrigating Canal Company.

The said order of June 30, 1921, in all other respects to remain unchanged.

Dated at San Francisco, California, this twenty ninth day of December, 1921.

DECISION NO. 9937.

IN THE MATTER OF THE INVESTIGATION, ON THE COMMISSION'S OWN MOTION, OF THE REASONABLENESS OF THE RATES CHARGED AND THE ADEQUACY OF SERVICE RENDERED BY CERTAIN PERSON OR PERSONS, CORPORATION OR ASSOCIATION, OPERATING UNDER THE NAME OF WALTER P. STORY BUILDING, IN THE DISTRIBUTION AND SALE OF STEAM HEAT.

Case No. 1592.

Decided December 29, 1921.

I. R. Rubin, for Complainant Gustav Mann.

Walter P. Story, in *propria persona*.

LOVELAND, *Commissioner*.

OPINION.

This is an investigation, on the Commission's own motion, into the reasonableness of the rates charged by Walter P. Story for the distribution and sale of steam.

At the hearing Mr. Story raised the objection that the Commission had no jurisdiction over his business for the reason that he was not operating a public utility. It appears from the evidence that Mr. Story installed a heating plant in the basement of his office building in 1910. Since that time he has made contracts for the sale of steam from his plant to various owners of stores and other office buildings in the immediate vicinity thereof. He now serves about 10 consumers with steam. With most of these he has written contracts in which the rate is definitely fixed. With the others he has merely verbal arrangements.

The steam plant in question was designed primarily for supplying service to the patrons of the Story Building. The evidence does not show that Mr. Story ever offered to sell steam to the public generally, or to any particular class thereof. He had no regular rate, and the terms of sale were fixed in each case by special agreement. On at least one occasion Mr. Story refused to supply steam to a party who desired to purchase it from him. Taking all the facts into consideration, it can not be said that Mr. Story was operating a public utility.

This view is confirmed by the fact that the Supreme Court, in the case of *Richardson vs. Story*, 61 Cal. Dec. 785, held that, for the purposes of taxation by the State of California, Mr. Story was not operating a public utility either as to the sale of steam or as to the sale of electricity. While it is true that at the time this decision was rendered sections 2(*bb*) and 2(*cc*) of the Public Utilities Act had not been added, we believe that the ruling of the Supreme Court, relative to the sale of electricity by Mr. Story, is applicable to the sale of steam. The facts before the Supreme Court showed that Mr. Story was operating his electrical plant in very much the same manner as it appears here that he is carrying on the sale of steam.

ORDER.

For the reasons stated in the foregoing opinion:

It is hereby ordered, that the above entitled proceeding be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-ninth day of December, 1921.

DECISION No. 9938.

IN THE MATTER OF THE APPLICATION OF SAN JOSE WATER WORKS,
A CORPORATION, FOR AN ORDER AUTHORIZING SAID SAN JOSE
WATER WORKS TO REFUND OUTSTANDING NOTES.

Application No. 7418.

Decided December 29, 1921.

Joseph P. Ryland, for Applicant.

BENEDICT, *Commissioner*.

OPINION.

San Jose Water Works, a corporation, asks permission to issue \$172,700 face value of notes for the purpose of refunding a like amount of notes. A list of the notes which applicant intends to refund are contained in paragraph "6" of applicant's petition.

Applicant reports that from December 1, 1920, to December 1, 1921, it expended for the acquisition of properties and the construction of additions and betterments the sum of \$211,809.92. These expenditures are segregated by applicant as follows:

Real estate	\$7,728 00
Buildings, structures and grounds	3,959 33
Impounding dams and reservoirs	28,537 76
Wells	13,323 47
Collecting reservoirs and intake wells	3,905 64
Pumping equipment	17,945 43
Distribution mains and canals	76,321 51
Services	12,778 27
Meters	42,688 36
Stable and garage equipment	3,740 01
Shop equipment	727 92
Office fixtures	154 22
Total	\$211,809 92

All of the notes which applicant asks permission to refund, except a \$74,400 note held by the Crocker National Bank of San Francisco, bear interest at the rate of 6 per cent per annum. The Crocker National Bank of San Francisco note bears interest at the rate of 7 per cent per annum. None of the notes are secured by a lien on applicant's properties, nor are any of them, according to applicant's president, endorsed by its stockholders.

Applicant has no bonded indebtedness.

I herewith submit the following form of order, which permits applicant to issue notes for a term of one year or less for the principal sum of \$172,700.

ORDER.

San Jose Water Works, a corporation, having applied to the Railroad Commission for permission to issue notes of the face value of \$172,700, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that San Jose Water Works, a corporation, be and it is hereby authorized to issue at not less than par for a term of one year or less notes in the face amount of not exceeding \$172,700 for the purpose of refunding the notes listed in paragraph "6" of the petition in this proceeding.

The authority herein granted is subject to further conditions as follows:

1. San Jose Water Works, a corporation, may pay interest at the rate of not exceeding 7 per cent per annum on the notes herein authorized to be issued.

2. If San Jose Water Works, a corporation, issues a note for a term of less than one year, such note may be renewed from time to time, provided that the term of the note issued originally under the authority

herein granted and the term of all notes issued in renewal thereof shall not exceed one year from the date of the note originally issued under the authority herein granted.

3. San Jose Water Works, a corporation, shall keep such record of the issue and sale of the notes herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

4. The authority herein granted will not become effective until San Jose Water Works, a corporation, has paid the fee prescribed by section 57 of the Public Utilities Act, which fee amounts to \$173.

5. The authority herein granted will apply only to such notes as may be issued on or before October 1, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-ninth day of December, 1921.

DECISION No. 9939.

IVEY LEWIS BORDEN

vs.

THE CALIFORNIA COMPANY.

Case No. 1302.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA COMPANY, A CORPORATION ORGANIZED UNDER THE LAWS OF THE STATE OF NEW YORK, FOR PERMISSION TO DISCONTINUE SERVICE OF WATER.

Application No. 6334.

Decided December 29, 1921.

PUBLIC UTILITY—SEPARATE DECISION.—The Public Utilities Act does not require or contemplate a separate decision by the Commission on the sole or bare question of whether or not any concern is a public utility.

PUBLIC UTILITY—STATUS ESTABLISHED.—It is found as a fact that the California Company is a public utility, owning, controlling and operating a water system, and that it is distributing water to the public for compensation.

PUBLIC UTILITY STATUS—TEMPORARY ACCOMMODATION.—The contention that the service and sale of water, amounting to only 10 or 15 per cent of the available supply, has been merely a temporary accommodation, pending proposed sale of its properties, cannot in any particular alter its public utility status.

SERVICE—ABANDONMENT OF.—Consumers being dependent upon the system, it is held to be manifestly unfair to permit the abandonment of service until every expedient which may help to solve the difficulties confronting the utility at present has been thoroughly tested out in practice.

*Aaron Sapiro, Milton D. Sapiro and Charles P. Snyder, for Ivey Lewis Borden.
F. J. Solinsky, for The California Company.
A. L. Cowell, for the Farmington Land and Irrigation Company.*

BY THE COMMISSION.

OPINION.

Complaint is made in the above entitled case that The California Company, defendant herein, has refused delivery of water required by complainant, Ivey Lewis Borden, for the operation of his gold dredger near Jenny Lind, Calaveras County.

Defendant in its answer alleges that the company is not a public utility, but at all times since its incorporation has been and now is a private corporation.

A petition in intervention was filed by 16 individuals, who allege in effect that the defendant has dedicated its water to the public use, in that for many years past they have been supplied at a fixed compensation and in varying quantities for mining, irrigation, stock raising, farming and domestic purposes. The intervenors join with complainant in a request that defendant, The California Company, be ordered by the Commission to furnish such water as is required by its consumers; to make all necessary improvements and repairs to its system in order to provide adequate service; and that just and reasonable rates be established for the various uses of water.

Subsequently the Farmington Land and Irrigation Company, a corporation, also filed a petition in intervention in the above entitled matter. This intervenor alleges in effect that it holds options on some 2100 acres of irrigable land in the vicinity of Farmington and that in cooperation with other landowners plans are being formulated for the organization of an irrigation district; that it also holds an option to purchase defendant's water supply system and proposes to reconstruct and utilize it for the irrigation of the proposed district and the development of electric power; and it therefore joins with the defendant in contending that there has been no dedication of the water supply to public use and requests that the defendant be adjudged a private corporation.

Complainant in his answer denies the right of the Farmington Land and Irrigation Company to intervene in this proceeding, contending that the company was incorporated in June, 1919, many months after the filing of above entitled proceeding, and that the project as proposed is designed for other purposes than the public benefit.

A public hearing was held in the above entitled matter at Milton before Examiner Encell, restricting the testimony to evidence relevant for a determination of the question of jurisdiction of this Commission. The case was submitted on briefs embracing arguments both on the law and the facts in the case.

The Public Utilities Act does not require or contemplate a separate decision by the Commission on the sole or bare question of whether or not any concern is a public utility. Accordingly, after a review of the evidence submitted, this Commission instituted a further hearing to complete the taking of evidence in the case as to service conditions and rate fixing. Thereafter The California Company filed the above entitled application No. 6334 for permission to discontinue service of water from said ditch.

Further hearings were held at Milton and San Francisco, before Examiner Satterwhite, and a stipulation was entered into that both matters be consolidated for hearing and decision.

The record shows that this ditch system was originally constructed about 1857 by the Calaveras County Water Company for hydraulic mining purposes. On May 5, 1883, The California Company was incorporated as a mining company under the laws of the State of New York, and acquired the ditch system and the appurtenant water rights and lands, together with some 1200 acres of hydraulic mining ground. After making extensive repairs and renewals on the ditch system The California Company began hydraulic operations about 1883 at its North Hill mine, but was compelled to cease hydraulic mining and close down in 1889 by reason of an injunction brought under the "Anti-Debris Act." Since 1889, with the exception of the years 1902 to 1904, when its mining property was operated under a lease, the company has not been engaged in mining activities but has continued to operate the ditch as a water system and has supplied water in the vicinity to such water users as have requested service for irrigation, watering stock, or dredger mining.

All of the capital stock of The California Company was acquired in November, 1918, by W. L. and R. G. Kann of Pittsburgh, Pennsylvania, who have since that date exercised control and management of its properties.

The water system consists of the Salt Spring Valley impounding reservoir, capacity 20,000 acre-feet; approximately 12½ miles of main ditch (capacity 1000 miner's inches), including about 1188 lineal feet of wooden flume; 2½ miles of branch ditches and two small earthen regulating reservoirs located at the ends of the ditch. There are no distributing ditches or laterals owned by the company.

The most important issue raised herein is whether or not defendant, The California Company, is a public utility as to the operation of its water system.

The evidence shows, and it is an admitted fact, that for over 30 years past The California Company has operated its water system continuously and has delivered water to various individuals who have applied for service and has collected regular rates therefor. Further, since 1889, when the company ceased to mine, it has engaged solely in the business of the sale and distribution of water to its consumers. The California Company has filed its annual reports with the Commission, and therein are set out, among other things, the number of consumers and the quantity of water delivered for irrigation and mining use, together with operating revenues from the water sales.

After carefully considering all of the evidence relative to the public utility status of this company's activities, and particularly the facts set out above, it is evident that said company owns, controls and operates a water system within this state and that it is distributing water to the public for compensation. The Commission therefore finds as a fact that The California Company is a public utility.

The contention of defendant that the service and sale of water, amounting only to 10 or 15 per cent of the available supply, has been merely as a temporary accommodation to certain parties within reach of its ditch pending the proposed sale of its properties, can not in any particular alter its public utility status.

We now proceed to a consideration of the matter of the establishment of rates and also of the application for permission to discontinue service of water.

Appraisals of the physical properties of this water system were submitted at the hearing by Mr. Burton Smith for the company and by Mr. H. A. Noble, one of the Commission's hydraulic engineers.

Mr. Smith arrived at a total of \$281,904, exclusive of overhead charges, as the estimated reproduction cost, based on prices of material and labor obtaining in 1919. He testified that the quantities and dimensions used in his inventory were approximations, since accurate surveys had not been made.

Mr. Noble submitted a total of \$146,292 as an estimate of the historical cost. The inventory, obtained from the company and verified generally by a field inspection, is substantially the same as that used by Mr. Smith.

No records of original cost of this ditch system are available.

The system was originally constructed and used to deliver large volumes of water for hydraulic mining purposes, which use has long since been discontinued, and the present small use to which it has reverted

for irrigation, gold dredger mining and cattle grazing, requires only from 10 to 15 per cent of the estimated available water supply. It is apparent that the system is largely overbuilt for the present small use of water, and therefore a rate schedule designed to produce an income sufficient to include payment of interest upon the reproduction cost or even the original cost of the property would result in unduly high and prohibitive charges and would require the few consumers at present served to pay more than the service is reasonably worth. According to the testimony the present owners acquired all of the stock of The California Company in 1918 for a consideration of \$50,000, but it was stated that this figure was contingent upon the writing off and releasing of some \$75,000 of obligations of the purchasers against other parties. Subsequent to 1918 the present owners offered to sell the entire property to Mr. Borden for \$60,000.

The evidence shows a general condition of disrepair of the system due to long deferred maintenance and the consequent large leakage and seepage losses from the ditch. Further, that practically all of the flumes and wooden structures, including the waste gates at the dam, have reached the condition that replacements are necessary to maintain service even for the present small use of water. A contractor's bid of \$12,250 was submitted in evidence for restoring the ditch to a serviceable condition, including renewal of the waste gates at the dam and replacing the flumes with ditches run up the gullies.

Mr. Noble's report shows an allowance for depreciation annuity, calculated by the sinking fund method at 6 per cent, amounting to \$55. The utility, however, claims an allowance of \$5,200 per year for this purpose. Attention is called to the fact that a very large proportion of the property consists of earth ditches, dams, and reservoirs which depreciate very slowly, if at all, and that the timber structures, comprising only a small portion of the total cost of the system, are the items with which we are principally concerned in fixing a proper allowance for depreciation. It appears that an annuity of \$300 will adequately care for depreciation on a system of this character when properly maintained.

Maintenance and operating expense has ranged from \$1,437 to \$2,098 per year during the period from 1915 to 1919, inclusive. The amounts expended, however, have not been sufficient to properly maintain the system. The evidence indicates that an allowance of \$4,000 per year will be required for the proper maintenance and operation of the system after it has been placed in reasonably good condition.

The utility's Exhibit No. 3 sets up the following claim for necessary annual charges:

Return at 6 per cent on \$130,000	\$7,800 00
Depreciation at 4 per cent	5,200 00
Maintenance and operating expense	5,000 00
Total	\$18,000 00

For purposes of comparison the following computation of annual charges is presented:

Return at 6 per cent on \$60,000, the price at which the property was offered for sale in 1918	\$3,600 00
Depreciation annuity	300 00
Maintenance and operating expense	4,000 00
Total	\$7,900 00

Revenues from the sales of water for several years past have fluctuated considerably, and are as follows:

1915	\$986 00
1916	493 00
1917	1,787 00
1918	2,336 00
1919	2,364 00
1920	1,251 00

The large decrease in 1920 was due almost entirely to the decreased use for mining.

If a revenue of \$2,350 is considered as a normal one at the present rates for this utility it is apparent that the rates would have to be increased 666 per cent in order to return the revenue necessary to equal the annual charges of \$18,000 claimed by the utility. In order to return revenues sufficient to cover the annual charges of \$7,900, set out above, rates would have to be increased 236 per cent.

Rates calculated to return the annual charges of \$7,900 would unquestionably result in such a decrease in water use that the resulting revenue would fall far below the desired amount, and it is doubtful if the utility can hope to earn, at least for some time to come, more than enough revenue to cover maintenance and operating expense, depreciation annuity, and perhaps a small return upon its investment. Rates will therefore be fixed so as to, as nearly as possible, do substantial justice to both the utility and the consumers.

The area irrigated under this system is now about 70 acres, and the use of water in 1920 was 13,963 miner's inch days. In 1919 the use was considerably greater, and amounted to 31,825 miner's inch days, the decrease in 1920 being principally due to a smaller use for mining purposes.

It is evident that this utility must look to the irrigators of land adjacent to its ditch for the greater part of its normal income, as experience in the past has shown that the use of water for mining

purposes fluctuates widely and is not at all dependable. The utility should, therefore, do everything in its power to encourage the use of water for agricultural purposes.

In 1920 there were 16 consumers using water for irrigation from this utility's system; in 1919 the number of consumers was 13. These consumers have established a use of water and are dependent upon the system for the production of their crops. It would therefore be manifestly unfair to permit the abandonment of service until every expedient which may help to solve the difficulties confronting the utility at present has been thoroughly tested out in practice.

ORDER.

Ivey Lewis Borden having made complaint against The California Company, and The California Company having made application for permission to discontinue service to its consumers, public hearings having been held thereon, briefs having been filed, and the matter having been submitted:

It is hereby found as a fact that The California Company is a public utility water system, and that public convenience and necessity require the continued operation of the water system, and the furnishing of water to Ivey Lewis Borden and all other applicants therefor, up to the limit of its dependable supply; and

It is hereby further found as a fact that the present condition of The California Company's water system is such that repairs and improvements thereof are necessary in order to render adequate service to consumers.

It is hereby further found as a fact that the rates now charged by The California Company for water delivered to its consumers are unjust and unreasonable in so far as they differ from the rates herein established and that the rates herein established are just and reasonable rates for such service.

And basing the order upon the foregoing findings of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that The California Company furnish a water supply to Ivey Lewis Borden and to all other applicants therefor, up to the limit of its dependable supply; and

It is hereby further ordered, that The California Company file with this Commission within thirty (30) days from the date of this order a plan for such repairs and improvements as are necessary to render adequate service to its consumers, and upon the approval of such plan by the Commission, to begin at once and proceed diligently to complete the repairs and improvements outlined therein, and

It is hereby further ordered, that The California Company file with this Commission within twenty (20) days from the date of this order the following rates for water delivered to its consumers, effective for all service rendered subsequent to January 31, 1922:

Rate Schedule.

For water delivered to consumers at turnouts on its main or branch ditches, per miner's inch run for twenty-four hours, which is equivalent to a total delivery of 2160 cubic feet----- \$0.20

It is hereby further ordered, that The California Company file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern its relations with consumers, such rules and regulations to become effective upon their acceptance by the Commission.

It is hereby further ordered, that the application of The California Company for permission to discontinue service to its consumers be and it is hereby denied.

Dated at San Francisco, California, this twenty-ninth day of December, 1921.

DECISION No. 9940.

IN THE MATTER OF THE APPLICATION OF ANTON J. RONSHHEIMER
FOR AUTHORITY TO INCREASE RATES FOR WATER AT PENN-
GROVE, CALIFORNIA.

Application No. 7304.

Decided December 29, 1921.

F. A. Meyer, for Applicant.

BY THE COMMISSION.

OPINION.

A public hearing was held by Examiner Westover at Penngrove, Sonoma County, upon above application for authority to increase rates for domestic water served in and about Penngrove, of which hearing all of applicant's consumers were notified and a number of whom appeared and testified.

It appears from the testimony that applicant purchased an eighty-acre ranch about 1904 and laid out upon it the townsite of Penngrove. Upon the ranch at the time it was purchased was the well from which applicant obtains his water supply. The water in it was originally impregnated with iron, sulphur and magnesia to such a degree that it was not suitable for domestic use. It was therefore drilled 49 feet

deeper through a thick strata of rock to its present depth of 116 feet and the surface water cased off; with the result that an artesian flow of excellent water was obtained. The well no longer flows, but an ample supply of water is obtained by pumping for the 39 services now connected to the system, which consists of pump, three-horsepower motor, two storage tanks of 8000 and 5000 gallons capacity respectively, and distribution mains.

Applicant has no books of account or records containing the cost of the system and except for one or two items was unable to state the cost from memory. He presented no engineering testimony, but relied upon the testimony of witnesses to present value of real estate and cost of material and labor. The consumers presented testimony upon the value of used and useful real estate and upon service conditions from which it appears that at times they are without water during periods of greatest use in the morning and evening hours.

Mr. John Spencer, one of the Commission's assistant hydraulic engineers, made an investigation, inventory and appraisal of the system showing the estimated original cost, plus overhead, to have been \$3969, annuity for replacements \$62.58 and estimated annual maintenance and operation expense \$433, allowing the usual operating costs for systems of this type in the absence of records showing actual operating cost. The present rate is \$1.50 per month for each consumer. This rate was recently increased without authority to \$2 per month, but applicant is now refunding the overcharge after having learned that rates can not legally be increased without authority of the Commission. The revenue earned during 1920 at the \$1.50 rate was \$584 and \$505 for ten months in 1921. It is apparent that applicant is not earning an adequate return upon his investment. New rates should provide for removing discriminations which exist by reason of uniform charge being made, whether consumers are served with much or little water.

Apparently about one-third of his power bill, which averages about \$145 per year, can be saved by metering system and a considerable saving in labor can be made by installing an automatic device for starting and stopping the motor.

Applicant claimed a value of \$2,500 for the right to take underground water from his well. It does not appear from his testimony that he invested any definite amount in water right. The testimony shows that the value of the water for the purposes for which it is now used was made by drilling the well 49 feet deeper, and the cost of this improvement is included in Mr. Spencer's estimate. It also appears that other wells equally favorably located can be purchased upon such terms that we could not justify adding to Mr. Spencer's estimates anything for water right. His estimate of cost of the system is based upon

costs of labor and materials at the times they were installed, while those of other witnesses for various items are based upon present costs. He has assigned to the pipe a shorter life than do applicant's witnesses, who recently uncovered and examined the pipe, with the result that his allowance for annual depreciation is larger than applicant's, but it is based on long experience and much broader data. We therefore use his estimates, above referred to, for rate base and annual charges.

As the annual charges, above referred to, including return upon investment, total \$813.58, and the estimated revenue at present authorized rates is about \$600 per year, it is apparent that the revenue should be increased. It is estimated that the rates found in the order will produce the required revenue, and more equitably distribute the burden between the consumers.

ORDER.

A public hearing having been held upon the above entitled application, the matter being submitted and now ready for decision:

The Railroad Commission hereby finds that the rates at present charged by applicant are inadequate, but that the rates hereinafter set forth are adequate, just and reasonable rates to be charged by above applicant.

Basing this order upon the above finding and upon all of the findings of facts contained in the preceding opinion:

It is hereby ordered, that Anton J. Ronsheimer be and he is hereby authorized to file with the Commission within twenty (20) days from date, and to thereafter charge and collect for water served in and about Penngrove, the following schedule of rates:

Monthly Metered Rates.

For the first 500 cubic feet, or less.....	\$1 50
For the next 500 cubic feet to 1000 cubic feet, per 100 cubic feet.....	25
For all above 1000 cubic feet, per 100 cubic feet.....	20

Monthly Flat Rates.

For each dwelling, business, or other service.....	\$2 00
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It is hereby further ordered, that applicant shall file with the Railroad Commission rules and regulations governing service of water upon his said system, such rules and regulations to be subject to the approval of the Commission.

It is hereby further ordered, that water meters may be installed at the cost of applicant upon any service at his option, and that water meters may be installed upon any service at the option of any consumer upon the advance by said consumer to the utility of the total

actual cost of the meter installed, such cost to be refunded to the consumer at the rate of half of such consumer's monthly water bills.

Dated at San Francisco, California, this twenty-ninth day of December, 1921.

DECISION No. 9942.

IN THE MATTER OF THE APPLICATION OF EAST BAY WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING SALE OF REAL PROPERTY.

Application No. 7429.

Decided December 29, 1921.

BY THE COMMISSION.

ORDER.

East Bay Water Company having made application to this Commission for permission to sell approximately 250 acres of nonoperative real estate and certain rights of way for electric power lines to Pacific Gas and Electric Company and Great Western Power Company;

And it appearing to the Commission that the property described in the schedule is not necessary or used or useful to East Bay Water Company in the discharge of its duties to the public, and that a public hearing in the matter is not necessary:

It is hereby ordered, that East Bay Water Company be and the same is hereby authorized to sell certain tracts of nonoperative real estate and certain rights of way for electric power lines, more particularly described in Appendix "A" attached hereto and made a part hereof.

It is hereby further ordered, that certified copies of the instruments of conveyance shall be filed with the Commission by said East Bay Water Company within thirty (30) days from the date on which they are executed.

Dated at San Francisco, California, this twenty-ninth day of December, 1921.

APPENDIX "A."

Schedule of Nonoperative Real Property to be Sold by East Bay Water Company.

I.

Portion of lot 1, Rancho El Sobrante, north of Tunnel road, lying outside San Pablo lake watershed.

All that certain real property situate, lying and being in the county of Contra Costa, State of California, and described as follows, to wit:

Commencing at the most northerly corner of lot No. One (1) of Rancho El Sobrante, said corner being marked by a granite monument and stake marked 4 in the westerly line of Acalenes Rancho, said monument bears south $1\frac{1}{4}$ degree

east, twenty-six and 65/100 (26.05) chains from the northwest corner of Acalanes Rancho; thence south 45 degrees 30 minutes west two thousand forty-seven and 7/10 (2047.7) feet; thence south 7 degrees 10 minutes east seven hundred five and 8/10 (705.8) to an oak one and 7/10 (1.7) feet in diameter marked IX; thence south 9 degrees 27 minutes west eleven hundred twelve and 6/10 (1112.6) feet to an oak 2.5 feet in diameter marked VIII; thence south 17 degrees 31 minutes west one hundred thirty-three and 2/10 (133.2) feet to an oak 2 feet in diameter marked VII; thence south 3 degrees 22 minutes west three hundred sixty-four (364.0) feet to an oak 0.8 of a foot in diameter marked VI; thence south 0 degrees 37 minutes east three hundred sixty-nine and 3/10 (369.3) feet to an oak 1 foot in diameter marked V; thence south 7 degrees 39 minutes east one hundred sixty-four and 7/10 (164.7) feet to an oak marked IV; thence south 23 degrees 3 minutes west one hundred seventy-one and 4/10 (171.4) feet to an oak 1.4 feet in diameter marked III; thence south 15 degrees 54 minutes west one hundred thirty-eight and 7/10 (138.7) feet to an oak 1 foot in diameter marked II; thence south 21 degrees 45 minutes east two hundred fifteen and 6/10 (215.6) feet to a point in center line of tunnel road at station 221 + 96.75; thence along the said center line of Tunnel road easterly on a curve to the right with a radius of ninety-five and 5/10 (95.5) feet a distance of forty (40) feet; thence south 86 degrees 16 minutes east eighty and 5/10 feet (80.5) feet; thence on a curve to the left with a radius of two hundred twenty and 38/100 (220.38) feet a distance of one hundred eighteen and 1/10 (118.1) feet; thence north 63 degrees 2 minutes east seventy-two (72.0) feet; thence on a curve to the right with a radius of eleven hundred forty-six (1146.0) feet a distance of ninety-six (96.0) feet; thence north 67 degrees 50 minutes east one hundred sixty-six and 1/10 (166.1) feet; thence on a curve to the right with a radius of two hundred eighty-six and 5/10 (286.5) feet a distance of one hundred eleven and 7/10 (111.7) feet; thence south 89 degrees 50 minutes east sixty-four and 8/10 (65.8) feet; thence on a curve to the right with a radius of one hundred two and 3/10 (102.3) feet a distance of eighty-nine (89.0) feet; thence south 40 degrees east seventy-two and 5/10 (72.5) feet; thence on a curve to the left with a radius of fifty-seven and 3/10 (57.3) feet a distance of ninety and 3/10 (90.3) feet; thence north 49 degrees 40 minutes east one hundred two and 4/10 (102.4) feet; thence on a curve to the right with a radius of ninety-five and 5/10 (95.5) feet a distance of fifty-two and 3/10 (52.3) feet; thence north 81 degrees 1 minute east five hundred sixty-six and 7/10 (566.7) feet; thence on a curve to the right with a radius of four hundred seventy-seven and 5/10 (477.5) feet a distance of fifty-four and 4/10 (54.4) feet to a point in the easterly line of said lot One (1) of Rancho El Sobrante and in the westerly line of Rancho Acalanes, from which point a granite post bears north 0 degrees 45 minutes west thirty-five and 7/10 (35.7) feet; thence leaving Tunnel road north 0 degrees 15 minutes west four thousand four hundred forty-four and 8/10 (4444.8) feet to the point of beginning.

Being a portion of lot No. One (1) of Rancho El Sobrante as said lot is delineated and so designated upon the map of the Rancho El Sobrante accompanying and forming a part of the final report of the referees in partition of said rancho, a certified copy of which said map was filed in the office of the county recorder of Contra Costa County, California, on the 14th day of March, 1910.

Containing one hundred thirty-three and 9/10 (133.9) acres exclusive of any part of Tunnel road.

II.

Portion of lot 1, Rancho El Sobrante, south of Tunnel road, outside San Pablo Lake watershed.

All that certain real property situate, lying and being in the county of Contra Costa, State of California, and described as follows, to wit:

Commencing at the southeast corner of lot No. One (1) of the Rancho El Sobrante, marked by a granite monument, said point of commencement also being the southwest corner of the Rancho Acalanes, and running thence north 39 degrees 41 minutes west seven hundred two and 3/10 (702.3) feet; thence north 8 degrees 36 minutes east eight hundred ninety-one and 2/10 (891.2) feet; thence north 21 degrees 8 minutes west fifteen hundred ninety-one and 5/10 (1591.5) feet; thence north 38 degrees 38 minutes west twelve hundred forty and 9/10 (1240.9) feet to a

point in the center line of Tunnel road at station 221 + 96.75; thence along the said center line of Tunnel road easterly on a curve to the right with a radius of ninety-five and 5/10 (95.5) feet a distance of forty (40) feet; thence south 86 degrees 16 minutes east eighty and 5/10 (80.5) feet; thence on a curve to the left with a radius of two hundred twenty and 38/100 (220.38) feet a distance of one hundred eighteen and 1/10 (118.1) feet; thence north 63 degrees 2 minutes east seventy-two (72) feet; thence on a curve to the right with a radius of eleven hundred forty-six (1146) feet a distance of ninety-six (96) feet; thence north 67 degrees 50 minutes east one hundred sixty-six and 1/10 (166.1) feet; thence on a curve to the right with a radius of two hundred eighty-six and 5/10 (286.5) feet a distance of one hundred eleven and 7/10 (111.7) feet; thence south 89 degrees 50 minutes east sixty-four and 8/10 (64.8) feet; thence on a curve to the right with a radius of one hundred two and 3/10 (102.3) feet a distance of eighty-nine (89) feet; thence south 40 degrees east seventy-two and 5/10 (72.5) feet; thence on a curve to the left with a radius of fifty-seven and 3/10 (57.3) feet a distance of ninety and 3/10 (90.3) feet; thence north 49 degrees 40 minutes east one hundred two and 4/10 (102.4) feet; thence on a curve to the right with a radius of ninety-five and 5/10 (95.5) feet a distance of fifty-two and 3/10 (52.3) feet; thence north 81 degrees 1 minute east five hundred sixty-six and 7/10 (566.7) feet; thence on a curve to the right with a radius of four hundred seventy-seven and 5/10 (477.5) feet a distance of fifty-four and 4/10 (54.4) feet to a point in the easterly line of said lot No. One (1) of Rancho El Sobrante and in the westerly line of Rancho Acalanes, from which point a granite post bears north 0 degrees 15 minutes west thirty-five and 7/10 (35.7) feet; thence leaving Tunnel road and running along the common line to lot No. One (1) of Rancho El Sobrante and Rancho Acalanes south 0 degrees 15 minutes east forty-one hundred seventy and 3/10 (4170.3) feet to the point of beginning.

Being a portion of lot No. One (1) of Rancho El Sobrante as said lot is delineated and so designated upon the map of the Rancho El Sobrante accompanying and forming a part of the final report of the referees in partition of said rancho, a certified copy of which said map was filed in the office of the county recorder of Contra Costa County, California, on the 14th day of March, 1910.

Containing sixty-three and 85/100 (63.85) acres exclusive of any part of Tunnel road.

III.

All that certain real property situate, lying and being in the city of Oakland, county of Alameda, State of California, and described as follows, to wit:

Beginning at a point on the southwesterly line of the right of way of the Central Pacific Railway Company where said line is intersected by the center line of a large ditch, said point of beginning being also the most easterly corner of that certain tract of land heretofore conveyed by George Schmidt and Nellie M. Schmidt, his wife, to Louis Schaffer, by deed dated July 21, 1908, and recorded July 31, 1908, in Liber 1495 of Deeds, page 292, in the records of Alameda County, State of California; and running thence along the center line of said ditch south 64 degrees 15 minutes west six and 50/100 (6.50) more or less chains to the center of the slough leading from Damon's Landing to the bay of San Leandro; thence southwesterly following the center line of said slough to the intersection of said line of said slough with survey of the shore line of the bay of San Leandro at a point midway between stations Nos. 201 and 202 in section 17, township 2 south, range 3 west, as shown on "Map No. 2 of Salt Marsh and Tide Lands," drawn by G. F. Alhardt, C.E., by order of the Board of Tide Land Commissioners under authority of a law approved April 1, 1871; thence in a general southeasterly direction following said survey of said shore line to its intersection with the southeasterly boundary line, or the direct extension southwesterly thereof, of a certain tract of land conveyed to Henry S. Fitch by a deed from Ezekiel Fitch, dated March 15, 1870, and recorded in the recorder's office of Alameda County on June 25, 1870, in Liber 55 of deeds, at page 444; thence northeasterly along the last said line to its intersection with the center line of the East Bay Water Company's southwest levee produced southeasterly; thence northwesterly and northeasterly along said center line of said levee the following courses and distances: north 56 degrees 57 minutes west one hundred thirty-two and 92/100 (132.92) feet; north 38 degrees 05 minutes west two hundred forty-seven and 84/100 (247.84) feet; north 52 degrees 42 minutes west four hundred two and 53/100 (402.53) feet; north 48 degrees 41 minutes west three hundred forty-four and 40/100 (344.40) feet; north 50 degrees 07 minutes west five hundred

thirty-two and 69/100 (532.69) feet; north 56 degrees 20 minutes west one hundred eighty-three and 73/100 (183.73) feet; north 34 degrees 25 minutes west one hundred fifty-eight and 78/100 (158.78) feet; north 21 degrees 30 minutes west three hundred ninety-six and 56/100 (396.56) feet; north 1 degree 12 minutes west two hundred sixty-eight and 60/100 (268.60) feet; north 47 degrees 00 minutes west three hundred nine and 80/100 (309.80) feet; north 33 degrees 34 minutes west ninety-seven and 80/100 (97.80) feet; north 4 degrees 23 minutes east seventy-eight and 83/100 (78.83) feet; north 36 degrees 59 minutes east four hundred sixteen and 80/100 (416.80) feet; north 5 degrees 17 minutes east one hundred twenty-eight and 20/100 (128.20) feet; north 20 degrees 55 minutes west two hundred ninety-nine and 43/100 (239.43) feet; north 0 degrees 24 minutes east forty-eight and 28/100 (48.28) feet; north 29 degrees 20 minutes east ninety-two and 70/100 (92.70) feet; north 68 degrees 56 minutes east one hundred thirty-seven and 00/100 (137.00) feet; north 83 degrees 47 minutes east three hundred thirty-two and 18/100 (332.18) feet; north 88 degrees 25 minutes east four hundred twelve and 40/100 (412.40) feet; north 63 degrees 20 minutes east one hundred sixty-one and 75/100 (161.75) feet; north 59 degrees 47 minutes east one thousand fifty-two and 67/100 (1052.67) feet; north 84 degrees 19 minutes east two hundred sixty-three and 41/100 (263.41) feet; north 61 degrees 42 minutes east four hundred seventy-one and 18/100 (471.18) feet; north 89 degrees 23 minutes east ninety-eight and 00/100 (98.00) feet more or less to an intersection with the said southwesterly line of the right of way of the Central Pacific Railway Company; thence northwesterly along said line of said right of way to the point of beginning.

Excepting any portion thereof lying easterly of the center line of said levee.

Containing twenty-eight and 20/100 (28.20) acres more or less.

IV.

All that certain property situate, lying and being in the county of Contra Costa, State of California, and described as follows, to wit:

Commencing at a point on the northwesterly line of a proposed street to be known as Church street, which said point is located south 89 degrees 31 minutes 24 seconds west, distant six hundred twenty-six and 26/100 (626.26) feet from the most southerly corner of lot No. 136 of the San Pablo Rancho, as said lot is delineated and so designated on that certain map entitled "Map of the San Pablo Rancho, accompanying and forming a part of the Final Report of the Referees in Partition," a certified copy of which said map was filed in the office of the county recorder of said county of Contra Costa, State of California, on the first day of March, 1894; and running thence along said line of proposed street south 48 degrees 55 minutes 14 seconds west eight and 63/100 (8.63) feet; thence south 42 degrees west one hundred fifty-five and 1/10 (155.1) feet; thence leaving said line of said proposed street north 48 degrees west four hundred ninety-four and 3/10 (494.3) feet; thence north 42 degrees east two hundred two and 4/10 (202.4) feet to a point in the center line of San Pablo Creek; thence north 84 degrees 30 minutes east seventeen and 3/10 (17.3) feet; thence north 58 degrees 45 minutes east seven and 23/100 (7.23) feet; thence leaving said San Pablo Creek south 41 degrees 5 minutes east four hundred eighty-five and 8/100 (485.08) feet to the point of commencement.

Containing two and 2/10 (2.2) acres.

V.

All that certain real property situate, lying and being in the county of Contra Costa, State of California, and described as follows, to wit:

Beginning at a point on the northerly line of Alvarado street, distant thereon north 48 degrees 0 minutes west three hundred seventy-three and 71/100 (373.71) feet from the most southerly corner of lot number one hundred thirty-seven (137) of the San Pablo Rancho, as said lot is delineated and so designated on that certain map entitled, "Map of San Pablo Rancho accompanying and forming a part of the Final Report of the Referees in Partition," a copy of which said map was filed in the office of the county recorder of said county of Contra Costa, March 1, 1894, and running thence from said point of beginning along said northerly line of Alvarado street, north 48 degrees west four hundred fourteen and 86/100 (414.86) feet; thence leaving said northerly line of Alvarado street north 42 degrees east

four hundred twenty (420) feet; thence south 48 degrees east four hundred fourteen and 86/100 (414.86) feet; thence south 42 degrees west four hundred twenty (420) feet to the point of beginning.

Being a portion of lot number one hundred thirty-seven (137) of said San Pablo Rancho.

Containing four (4) acres.

VI.

All that certain real property situated, lying and being in the county of Alameda, State of California, and described as follows, to wit:

Lots twenty-eight (28) and twenty-nine (29), according to the Whitcher survey of four (4) acre lots, as said lots are delineated and designated on the map of said survey, entitled "Map of the Survey of 4 acre Lots made by J. E. Whitcher in Alameda," filed in the office of the county recorder of said county March 9, 1863, and a portion of lot thirty (30), as the same is delineated and designated on said map, said portion being the northeasterly portion of said lot and adjoining said lot twenty-nine (29) and having a frontage of fifty (50) feet on the easterly side of High street and a uniform width of fifty (50) feet, and extending the whole length of said lot thirty (30) from High street to its southeasterly end.

VII.

All that certain real property situate, lying and being in the city of Alameda, county of Alameda, State of California, and described as follows, to wit:

Beginning at the intersection of the southeast boundary line of the tract shown and delineated on the map of survey of four acre lots made by J. E. Whitcher, in Alameda, filed in the office of the county recorder of said Alameda County, March 9, 1863, with a line drawn parallel to line between lots 29 and 30 of said survey and distant fifty (50) feet southwesterly therefrom; thence northeasterly and along said southeast boundary line of said survey seventy-eight and 18/100 (78.18) feet to the westerly line of Fernside boulevard; thence northerly along said westerly line of Fernside boulevard to the southeasterly line of lot No. 28, of said Whitcher survey; thence southwesterly along line of lots 28, 29 and 30 of said Whitcher survey to the point of beginning.

VIII.

All that certain real property situate, lying and being in the county of Alameda, State of California, and described as follows, to wit:

Commencing at the southwest corner of a certain eighteen and 70/100 (18.70) acre tract of land in Alameda County, State of California, deeded by Henry Pierce et al. to the Contra Costa Water Company by deed dated October 3, 1901, and recorded in the office of the county recorder of said Alameda County July 26, 1902, in Vol. 858 of deeds, page 57; and running thence along the easterly line of a twelve (12) acre tract surveyed off to F. Myers, north 23 degrees 30 minutes west six hundred sixty-eight and 58/100 (668.58) feet to the middle of San Leandro Creek; thence meandering up the middle of said creek as follows: north 31 degrees 15 minutes east thirteen and 20/100 (13.20) feet; thence north 34 degrees 30 minutes east two hundred forty-four and 20/100 (244.20) feet; thence south 88 degrees east one hundred twenty-one and 44/100 (121.44) feet; thence south 76 degrees 30 minutes east two hundred eighty-one and 16/100 (281.16) feet; thence south 78 degrees 30 minutes east one hundred ninety-eight (198) feet; thence leaving San Leandro Creek south 40 degrees 37 minutes east one hundred eighty-three and 73/100 (183.73) feet; thence south 64 degrees east two hundred thirty (230) feet; thence south 13 degrees 46 minutes east two hundred seventy-three and 30/100 (273.30) feet; thence south 48 degrees 39 minutes west two hundred eight and 80/100 (208.80) feet to the northerly line of Ward or Estudillo avenue, or the prolongation thereof; thence along said line of said avenue as follows: north 59 degrees thirty minutes west one hundred fifty-four and 44/100 (154.44) feet; thence south 72 degrees 30 minutes west three hundred thirty (330) feet; thence south 83 degrees 15 minutes west two hundred four and 60/100 (204.60) feet; thence south 61 degrees 30 minutes west fifty-eight and 8/100 (58.08) feet to the point of beginning.

Containing fourteen and 5/100 (14.05) acres.

**Descriptions of Rights of Way and Easements,
Pacific Gas and Electric Company.**

I.

All that certain real property situate, lying and being in the county of Alameda, State of California, and described as follows, to wit:

Beginning at a point in the line marking the boundary between the lands of the East Bay Water Company and the lands of the Pacific Gas and Electric Company, from which the southeasterly corner of that certain tract of land conveyed by the East Bay Water Company to the Pacific Gas and Electric Company by deed dated August 25, 1921, and recorded in volume 86 of deeds, page 49, records of Alameda County, the State of California, bears south 33 degrees 58 minutes west two hundred twenty-two and 8/10 (222.8) feet distant, and running thence along said boundary line north 33 degrees 58 minutes east three hundred twenty-one and 6/10 (321.6) feet; thence leaving said boundary line south 87 degrees 59½ minutes east one hundred ninety and 4/10 (190.4) feet to a point in the line marking the easterly boundary of the lands of the East Bay Water Company; thence along said boundary line south 22 degrees 45 minutes west one hundred thirty-six and 1/10 (136.1) feet; thence south 9 degrees 00 minutes east ninety-five and 5/10 (95.5) feet; thence leaving said boundary line south 83 degrees 05½ minutes west three hundred thirty-five (335) feet, more or less, to the point of beginning.

Being the fractional part of plot "F" of the Undivided Mountain or Hill Land (V. and D. Peralta), in the city of Oakland, Alameda County, State of California.

II.

That certain parcel of land situated in the county of Alameda, State of California, and described as follows, to wit:

A strip of land one hundred sixty (160) feet in width, lying equally on either side of the following described center line:

Part 1. Beginning at a point in the line marking the boundary between the lands of the East Bay Water Company and the lands of H. M. Buckley et al., from which the northwest corner of Plot "C," said point being marked by post No. 27 of the county line between the counties of Alameda and Contra Costa, bears north 80 degrees 59½ minutes west, one hundred seventy-eight and 1/10 (178.1) feet distant, and runs thence south 42 degrees 41½ minutes west two hundred fifty (250) feet more or less to a point in the westerly line of said plot "C."

Part 2. Beginning at a point in the line marking the boundary between the lands of the East Bay Water Company and the lands of H. M. Buckley (said line being marked by a fence now upon the ground), from which the northwest corner of plot "C" of the Undivided Mountain or Hill Land (V. and D. Peralta) as same is shown in the records on file in the office of the county recorder of the county of Alameda, State of California, said point being marked by post No. 27 of the county line between the counties of Alameda and Contra Costa, bears south 43 degrees 44 minutes west four thousand six hundred sixty-eight (4668) feet distant, and runs thence north 76 degrees 56½ minutes east eighteen hundred (1800) feet more or less to a point in the line marking the easterly boundary of lot three (3), section nine (9), township one (1) south, range three (3) west, Mount Diablo Base and Meridian.

III.

That certain parcel of land situated in the county of Contra Costa, State of California, and described as follows to wit:

A strip of land of the uniform width of one hundred (100) feet, lying equally on either side of the following described center line:

Part 1.—Beginning at a point in the line marking the boundary between the lands of the East Bay Water Company and the lands of A. J. Marshall, from which a stone monument located on the northerly bank of San Pablo Creek near the south-westerly corner of lot eight (8) of the Orinda Park Tract of the Castro Sobrante Tract, as per map on file in the office of the county recorder of Contra Costa County, State of California, bears south 44 degrees 24½ minutes west nine hundred forty-three and 4/10 (943.4) feet distant, and runs thence south 23 degrees 14½

minutes east four thousand two hundred (4200) feet more or less to a point in the line marking the boundary between the lands of the East Bay Water Company and the lands of C. S. Baker.

Part 2. Beginning at a point in the line marking the boundary between the lands of the East Bay Water Company and the lands of H. R. Oakley, from which the northeast corner of lot thirty (30) of Orinda Villa Park Tract as the same is shown on the map on file in the office of the county recorder of Contra Costa County (said corner being marked by a 4-inch post now upon the ground) bears north 52 degrees 41½ minutes east four hundred three and 9/10 (403.9) feet distant, and runs thence north 25 degrees 27 minutes west four thousand five hundred eight and 1/10 (4508.1) feet; thence north 13 degrees 02½ minutes east four thousand seven hundred sixty-four and 1/10 (4764.1) feet; thence north 0 degrees 04½ minutes east one thousand seven hundred fifty-six (1756) feet more or less to a point in the line marking the boundary between the lands of the East Bay Water Company and the lands of E. J. Hampton (said line being marked by a fence now upon the ground).

IV.

That certain parcel of land situated in the county of Contra Costa, State of California, and described as follows, to wit:

A strip of land of a uniform width of sixty (60) feet, lying equally on either side of the following described center line:

Beginning at a point in the southerly boundary line of the right of way of the Great Western Power Company, from which a stone monument located on the northerly bank of San Pablo Creek near the southwest corner of lot eight (8) of the Orinda Park Tract of the Castro Sobraute Tract as per map on file in the office of the county recorder of Contra Costa County, State of California, bears north 46 degrees 04 minutes west two thousand forty-eight and 2/10 (2048.2) feet distant, and running thence south 23 degrees 14½ minutes east two thousand ninety-seven and 0/10 (2097.0) feet more or less to a point in the line marking the boundary between the lands of the East Bay Water Company and the lands of C. S. Baker.

Description of Right of Way and Easement, Great Western Power Company of California.

I.

That certain parcel of land situated in the county of Contra Costa, State of California, and described as follows, to wit:

A strip of land one hundred (100) feet in width, being a portion of lot one hundred thirty-seven (137) as said lot is numbered and delineated upon that certain map entitled, "Map of San Pablo Rancho accompanying and forming a part of the Final Report of the Referees in Partition," filed on the first day of March, 1894, in the office of the county recorder of the county of Contra Costa, State of California, the center line of which is more particularly described as follows, to wit:

Commencing at a point from which the southeast corner of said lot one hundred thirty-seven (137) bears south 42 degrees west four hundred twenty (420) feet to the southeasterly boundary line of said lot one hundred thirty-seven (137); thence along said boundary south 48 degrees east five hundred eighty-one and 14/100 (581.14) feet to said southeast corner, and running thence north 42 degrees east one hundred eighty (180) feet to a point; thence north 21 degrees 34 minutes east eight hundred fourteen and 68/100 (814.68) feet to a point; thence north 10 degrees 13 minutes east eight hundred fifteen and 8/10 (815.8) feet to a point; thence north 40 degrees 13 minutes east forty-six and 2/10 (46.2) feet to a point in the northerly boundary of said lot No. one hundred thirty-seven (137), from which stake marked 46 at angle point on said northerly boundary bears north 87 degrees 31 minutes east three hundred seventy and 4/10 (370.4) feet.

Also extensions in its course of said center line at each end, in order to bring the exterior boundary lines of said right of way to the boundary lines of the above described property.

DECISION No. 9943.

ALBERS BROS. MILLING COMPANY

vs.

SOUTHERN PACIFIC COMPANY ET AL.

Case No. 1471.

IN THE MATTER OF THE INVESTIGATION OF THE TRANSIT PRIVILEGES—MILLING, CLEANING, STORING AND OTHERWISE TREATING IN TRANSIT, GRAIN AND GRAIN PRODUCTS—OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, LOS ANGELES AND SALT LAKE RAILROAD COMPANY, SOUTHERN PACIFIC COMPANY, WESTERN PACIFIC RAILROAD COMPANY, SACRAMENTO NORTHERN RAILROAD COMPANY, PACIFIC ELECTRIC RAILWAY COMPANY AND SAN FRANCISCO-SACRAMENTO RAILROAD COMPANY.

Case No. 1526.

Decided December 29, 1921.

BY THE COMMISSION.

OPINION ON PETITION FOR REHEARING.

This is a joint application of the interested carriers for a rehearing in the above entitled cases.*

The Commission's Decisions Nos. 9674 and 9786 ordered the defendant carriers to establish milling, cleaning, storing and otherwise treating in transit arrangements on carload shipments of grain and grain products applicable to all points on the lines of these defendant carriers within the State of California and to establish out-of-line haul and intermediate routing to all points within 125 miles and prescribed a schedule of charges which the Commission determined were just and reasonable for such out-of-line haul and which were to become effective on or before December 15, 1921.

Several reasons are urged by the petitioners as to why a rehearing should be granted. One of the contentions of the appellant is that no discrimination between Stockton and Southern California was shown. The original decision clearly sets forth that discrimination exists and therefore does not require repeating here.

On page 3 of the petition it is stated that the San Francisco-Sacramento Railroad has no transit arrangements on grain. The investigation in this proceeding was on the Commission's own motion and that line was made a party to the case and is therefore governed by the decision and order.

The petitioner's contention that the intermediate routing at Stockton and Los Angeles does not result in any unjust discrimination is

clearly covered in the original opinion and order, which requires defendants to simply extend to all territory similarly situated the same service as is provided at these points.

Relative to the ambiguity of the provisions of the original order regarding out-of-line hauls, the Commission used practically the same language as is used in the defendant's tariffs. The out-of-line haul is the difference in the distance required to travel via a direct route or route authorized in carrier's routing circulars and the distance via a circuitous route which may also entail a back haul. There is no provision made in the order for a strictly back haul movement, therefore a movement from a point of origin to a milling point and back to the point of origin, as referred to in the petition, is not authorized and was not dealt with in the opinion and order.

"Intermediate routing" is an out-of-line haul authorized in carrier's routing circulars, such as that of the Southern Pacific Company, in the case of Stockton and Los Angeles on the line of the Santa Fe, viz: the making of a point intermediate by routing instructions which point would not be intermediate via a natural or direct route.

Relative to petitioner's contention that the record is silent as to the conditions existing on any lines other than the Southern Pacific and the Santa Fe, except as to the Northwestern Pacific to the extent that it participates jointly in traffic with the Southern Pacific Company is not of importance, for all carriers parties to the proceeding were cited to appear and their failure to do so does not affect our findings.

The contention that the order is indefinite in that it does not provide whether the out-of-line hauls apply only upon one line or over two or more lines is not well taken, for the reason that joint rates were not in issue in this proceeding.

Petitioner's contention that certain lines not party to this proceeding would be put to a disadvantage over lines party to the proceeding is not well taken, for the reason that any line not party to this case can cure any such disadvantage by establishing the same transit privileges as are required by the decision and order in this case.

We have given careful consideration to each of the defendant's reasons as set forth in the petition for a rehearing, and have also considered the offer of the defendants to produce further evidence, but find nothing referred to which was not given full consideration prior to the rendering of the decision in the proceeding. The petition for a rehearing, being without merit, should be denied.

ORDER.

The defendants having filed a joint petition for a rehearing in the above entitled proceedings and consideration having been given thereto, and no good reason appearing why such petition should be granted;

It is hereby ordered, that said petition for rehearing be and the same is hereby denied.

It is hereby further ordered, that the transit privileges, rates, rules and regulations prescribed in Decisions Nos. 9674 and 9786 be established, effective on one day's notice, but not later than January 15, 1922.

Dated at San Francisco, California, this twenty-ninth day of December, 1921.

DECISION NO. 9947.

HARRY C. RAHN ET AL.

VS.

JESSE S. HARKER AND EDNA M. HARKER.

Case No. 1610.

Decided December 29, 1921.

WATER UTILITY--DISCRIMINATION.—To charge the minimum meter rate to part of the consumers having no meters is held to be a discrimination, in the absence of a flat rate schedule. This permits these users to use for a nominal charge an excessive amount of water, it is pointed out.

Harry C. Rahn and R. O. Utterback, for Complainants.

Charles L. Evans, for Defendants.

BY THE COMMISSION.

OPINION.

This is a proceeding brought by Harry C. Rahn and some fifty other residents of a tract of land adjacent to the southwesterly boundary of the city of Los Angeles, and bounded on the north by Barraba street, on the east by Main street, on the south by 100th street, and on the west by Moneta avenue, in Los Angeles County, against Jesse S. Harker and Edna M. Harker, owners of a public utility water system known as Melvin Place Water Plant, which supplies 310 consumers, about 210 of whom are metered.

Complainants allege in effect that the amount of water furnished is not adequate for ordinary needs; that the pressures are not sufficient to force water into the houses of complainants, so that plumbing fixtures can be properly operated; and that there is a lack of proper supervision in the operation of the system.

Defendants in answer deny all the allegations of the complainants, and allege in effect that there is sufficient water for domestic use except at certain times of the day when large numbers of the consumers are using water for irrigation of lawns and gardens.

Public hearings were held in this matter before Examiner Williams at Los Angeles.

The evidence clearly shows that the water service has been decidedly unsatisfactory. Furthermore, it appears that a spirit of antagonism and distrust exists between the defendants and the consumers. Discrimination has been shown in that, in the absence of a flat rate schedule, the minimum meter rate has been charged to approximately one-third of the consumers having no meters, who have been allowed for a nominal charge to use excessive amounts of water on their lots and gardens, while their less fortunate neighbors have been compelled to pay at meter rates for all the water used.

Since the filing of this complaint and for some time previous, the Commission's hydraulic engineers have kept in close touch with the service conditions under this system and have made numerous inspections. In their opinion the distribution mains of this system are not of sufficient size to furnish an adequate supply of water to the consumers with the pressures obtained from the storage tank that is raised some fifty feet above ground. Temporary relief was obtained on a portion of the system by the installation of a booster pump, which increased the pressure in the southern portion of the district to 45 pounds. This, however, failed to relieve the situation at the north end of the tract, where a pressure of only nine pounds was produced, due no doubt to the inadequate size of the pipe lines or to some obstructions in them. It is therefore apparent that the only permanent relief for this system lies in the installation of larger distribution mains and the placing of meters on all services.

We wish to urge upon both the complainants and defendants the necessity of such cooperation as will promote harmonious relations, and will, in the end, result in good to all concerned. The defendants, as a public utility, have assumed the obligation of rendering adequate and satisfactory service, and to do this they must promote a spirit of cooperation among their consumers.

Defendants have enjoyed rates which carried provision for deterioration and renewals, but the testimony shows that practically nothing has been expended in keeping up or improving the system as consumers increased. Defendants related their failure to obtain loans for such purposes and gave as a reason that should the consumers elect to annex the area served to the city of Los Angeles, which would lay its own mains and thereafter supply water, the utility would be forced out of existence. While this peril exists, defendants can cooperate with the city of Los Angeles by laying mains according to its specifications, and be reimbursed therefor, less depreciation, whenever the city occupies this area. We regard it as a reasonable duty on the part of defendants to make such improvements as are necessary to give adequate service.

On the other hand, the consumers, if they wish to receive satisfactory service, must do their part and refrain from any acts tending to disrupt harmonious relations, and particularly those consumers whose acts might interfere with the delivery of water to their neighbors.

ORDER.

Harry C. Rahn and other consumers having complained against the water service rendered to them by Jesse S. Harker and Edna M. Harker, owners of the Melvin Place Water Plant, public hearings having been held thereon and the matter having been submitted:

It is hereby found as a fact that defendants have not furnished an adequate supply of water to their consumers; that the pressures maintained have not been sufficient to force water into the houses so that plumbing fixtures could be properly operated; and that there has been a lack of proper supervision in the operation of the system.

And basing the order on the foregoing findings of fact and upon the statements of fact contained in the opinion preceding this order:

It is hereby ordered, that Jesse S. Harker and Edna M. Harker be and they are hereby ordered to file with this Commission within thirty (30) days from the date of this order, for its approval, detailed plans of such improvements and betterments as are necessary to insure to their consumers an adequate water service at all times, and upon the approval of such plans by the Commission, to proceed immediately with the work of installation and to report the progress of the improvements to this Commission at weekly intervals until completion; and

It is hereby further ordered, that Jesse S. Harker and Edna M. Harker be and they are hereby directed to place a suitable meter upon each active service not later than March 1, 1922, and that this Commission be notified when the metering of the system is completed; and

It is hereby further ordered, that Jesse S. Harker and Edna M. Harker be and they are hereby directed to file with this Commission within thirty (30) days of the date of this order, rules and regulations governing the distribution of water to their consumers, such rules and regulations to become effective immediately upon their acceptance by this Commission.

Dated at San Francisco, California, this twenty-ninth day of December, 1921.

DECISION No. 9948.

IN THE MATTER OF THE APPLICATION OF THE CORONADO WATER COMPANY, A CORPORATION, FOR AN INVESTIGATION BY THE RAILROAD COMMISSION OF ITS RATES, CHARGES, RULES, REGULATIONS AND PRACTICES IN THE CITY OF CORONADO AND THE TERRITORY SERVED BY THE CORONADO WATER COMPANY, AND THE ESTABLISHMENT OF PROPER AND ADEQUATE RATES, CHARGES, RULES, REGULATIONS AND PRACTICES.

Application No. 7228.

Decided December 29, 1921.

Read G. Dilworth, for the Applicant.

Arthur Wright, for the City of Coronado.

E. W. Peterson in propria persona.

BY THE COMMISSION.

OPINION.

This is an application for permission to increase rates by the Coronado Water Company, a public utility supplying water to consumers in the city of Coronado and adjacent territory in San Diego County.

The application alleges in effect that due to the failure of the utility's Otay wells it is necessary to purchase practically the entire water supply from the city of San Diego at a cost greatly in excess of the former pumping expense, and that the revenues derived from the sale of water at present rates will not be sufficient to provide for maintenance and operating expense, depreciation and a reasonable return upon the investment. The Commission is therefore asked to fix reasonable rates and rules for the service rendered and, as an emergency measure, to permit applicant to add to its present rates a surcharge of 6 cents per thousand gallons, pending a final determination of the matter.

A public hearing was held in Coronado, before Examiner Satterwhite, of which all interested parties were notified and given an opportunity to be present and to be heard.

Coronado Water Company was incorporated under the laws of the State of California on July 14, 1886. During that year a water system was constructed and the company has since that time supplied water to consumers in the city of Coronado and vicinity.

The present water system consists primarily of transmission pipe lines, wells, reservoirs and a distribution pipe system.

The main transmission pipe line has its beginning at the Coronado "Y," on the Otay-San Diego pipe line, about 2½ miles west of lower Otay dam. From this point 20-inch wood stave, 20-inch riveted steel and 16-inch cast-iron pipe lines convey water in a westerly and north-westerly direction, a distance of 16.2 miles to the southerly limits

of the city of Coronado. About 6 miles west of the Coronado "Y" is located the Highland Reservoir, a concrete lined tank of 1,725,000 gallons capacity. One mile west of Highland Reservoir, in the valley of the Otay River, are two wells equipped with electrically driven pumps. A second section of transmission line, consisting of an 8-inch cast-iron, flexible, ball joint pipe, 4232 feet long, extends from a point near the Coronado ferry slip, under San Diego Bay, to the junction of Market and Atlantic streets in the city of San Diego. This is usually referred to as the submarine pipe line.

The distribution system consists of 31 miles of cast-iron and screw pipe, ranging in size from 16 to 1 inch in diameter. A steel distribution reservoir of 466,000 gallons capacity is located on the highest point in the city of Coronado. There are 1328 meters on the system.

Water delivered to consumers is secured by pumping from the Otay wells and by purchase from the city of San Diego at the Coronado "Y" and at the foot of Market street. In 1917 ninety-five per cent of the entire supply was pumped but since then the wells have gradually failed, until in October, 1921, the quality of the water became so poor and the quantity so small that practically the entire supply had to be secured by purchase. Water purchased at the foot of Market street is at the rate of 20 cents per 1000 gallons while the purchases at the Coronado "Y" are at a rate of approximately 10 cents per 1000 gallons. The contract covering purchases at the Coronado "Y" expires on February 6, 1922, and thereafter the rate will be advanced to 20 cents.

The J. D. and A. B. Spreckels Securities Company, acting for the Coronado Water Company, has acquired a tract of land in the Tia Juana River Valley, has drilled wells, and has made application to the State Water Commission for a permit to pump up to a maximum of five million gallons daily from this source. This application has not yet been decisively acted upon by the Water Commission, but is being held in suspense pending the submission of additional measurements of underground and surface water in the valley which can not be completed until some time in 1922. If this application is granted there will be made available an abundant supply of fairly cheap and potable water, and purchases from the city of San Diego can be reduced to a minimum.

Practically all water is sold at meter rates as follows:

From 0 to 10,000 gallons, per 1000 gallons.....	\$0 30
From 10,000 to 15,000 gallons, per 1000 gallons.....	0 20
Over 15,000 gallons, per 1000 gallons.....	0 15
Consumers using 250,000 gallons or over per month are charged per 1000 gallons.....	0 125
Outside the city of Coronado water is supplied through master meters to three consumers who in turn distribute the water to consumers through their own distribution systems. The rate per 1000 gallons charged for such wholesale supply is.....	
	0 12

The United States government is supplied with water for use at the aviation field on North Island at the rate of, per 1000 gallons-----	\$0 125
Water supplied to the city of Coronado for municipal purposes is at the rate of, per 1000 gallons-----	0 25
A very few consumers are supplied with water at flat rates ranging from \$1 per month upward.	
The monthly minimum charge for service is-----	1 50

The original cost of the system as shown by the company's books is \$636,054 on September 30, 1921.

The applicant presented an appraisal of the property showing an estimated reproduction cost, as of December 31, 1920, of \$811,752, and a present value of \$685,711.

Mr. F. M. Faude, one of the Commission's hydraulic engineers, presented a report which showed an estimated original cost of lands, rights of way, and physical property, using as nearly as possible the actual costs of materials and labor which prevailed at the time the various items were constructed. The total as developed by this estimate was \$675,482, and indicates that the book costs are extremely reasonable.

This report also showed a depreciation annuity for the future, calculated by the sinking fund method, amounting to \$8,500.

An estimate of future maintenance and operating expense, based upon the purchase of the entire water supply from the city of San Diego, was also presented and amounts to \$105,736, of which 81 per cent was for water purchased. If 90 per cent of the total supply is purchased and the remainder pumped, maintenance and operating expense is estimated as \$97,826.

The testimony shows that the Otay wells can be relied upon to furnish only a very small portion of the total supply during the year 1922, and that the water pumped is of poor quality.

The report of the Commission's engineer shows annual charges, based upon the purchase of the entire water supply, as follows:

Eight per cent return upon the investment plus an allowance for working capital, amounting to approximately \$648,000-----	\$51,840
Depreciation annuity -----	8,500
Maintenance and operating expense-----	105,736
Total -----	\$166,076

It is estimated that 380,500,000 gallons of water will be delivered to consumers in 1922. If it is assumed that fire hydrant and miscellaneous revenues for 1922 remain unchanged at \$6,845, there remains \$159,231 of annual charges to be secured from direct sales of water to consumers, or an average of 41.8 cents per 1000 gallons.

Revenues for the year ending September 30, 1921, amounted to \$70,720, and revenues for the year 1922 at the present rates are estimated at \$75,200, or \$90,876 less than the annual charges set out above. It is therefore evident that the utility is entitled to an increase in rates.

Studies of the results of operation of this utility, as shown in the report of the Commission's engineer, indicate that the rate of return earned upon the investment has varied from 1.76 to 2.74 per cent per annum from January 1, 1917, to September 30, 1921.

After the testimony of all parties hereto had been presented applicant stated that an average cost of water of 41.8 cents per 1000 gallons would place too great a burden upon the consumer and would retard development of the city of Coronado, and that the utility would therefore be content with an average rate of 35 cents per 1000 gallons, which would yield a return of 4 per cent upon its investment. It is obvious that such an attitude indicates a sincere desire to cooperate with the consumers, and is highly commendable.

A study of the tabulations of water use and revenue presented in evidence indicates that too great a differential exists in the present rates between the cost per 1000 gallons of water delivered to consumers of small quantities and the cost to users of large amounts. These inequalities will be removed in the schedule of rates established in the accompanying order.

Mention has heretofore been made of some three consumers who purchase water in wholesale quantities and distribute it through their own pipe systems to the individual consumers. These consumers are all located upon the upper end of the utility's main transmission line and the water so supplied is not passed through the company's distribution system. This service is not therefore so costly as the service to other consumers. This fact will receive due consideration in the rate computations. However, it is suggested that Coronado Water Company enter into negotiations with the owners of these other distribution systems with a view to the acquisition of the plants, in order that the entire territory may be supplied by the one system and the middleman be eliminated.

Conditions of water supply on this system are so uncertain that the establishment of any schedule of rates can be regarded only as a temporary expedient and for this reason the Commission will keep in close touch with the situation and, whenever justified, will make such further order as is proper in the premises.

In the circumstances the request of applicant for an emergency rate of 6 cents per thousand gallons pending a final determination of this matter will be denied.

ORDER.

Coronado Water Company having made application as entitled above, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that the rates now charged by Coronado Water Company for water delivered to its consumers are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates to be charged for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that Coronado Water Company be and it is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order and thereafter charge, effective for all water delivered subsequent to January 31, 1922, the following rates for water supplied to consumers:

Monthly Minimum Charges.

For $\frac{1}{8}$ -inch meter	\$1 50
For $\frac{1}{4}$ -inch meter	1 75
For 1 -inch meter	2 00
For 1½-inch meter	3 00
For 2 -inch meter	4 00
For 3 -inch meter	7 00
For 4 -inch meter	12 00
For 6 -inch meter	20 00

Monthly Meter Rates.

From 0 to 250,000 gallons, per 1000 gallons	\$0 37
Over 250,000 gallons, per 1000 gallons	33
For water delivered on the main transmission line between Coronado "Y" and Coronado Heights, per 1000 gallons	27
All other rates to remain as at present in effect.	

It is hereby further ordered, that Coronado Water Company file with this Commission within thirty (30) days of the date of this order rules and regulations to govern relations with its consumers, such rules and regulations to become effective immediately upon their acceptance by this Commission;

It is hereby further ordered, that Coronado Water Company be and it is hereby directed to file with this Commission on or before the last day of each month a complete statement of revenues, operating expenses and water deliveries for the preceding month.

Dated at San Francisco, California, this twenty-ninth day of December, 1921.

DECISION No. 9949.

IN THE MATTER OF THE APPLICATION OF W. E. BRADBURY FOR
PERMISSION TO COLLECT WATER RATES

Application No. 6966.

Decided December 30, 1921.

H. J. Wright, for Applicant.

BY THE COMMISSION.

OPINION.

W. E. Bradbury makes application for a certificate of public convenience and necessity authorizing him to supply water for domestic purposes in the unincorporated town of North San Juan, Nevada County, and for the establishment of rates for the service rendered.

A public hearing was held at Nevada City, before Examiner Satterwhite, of which all interested parties were notified and given an opportunity to be present and to be heard.

It appears that the original water system supplying the town was constructed in the early mining days and passed through various hands until it was acquired by Mr. Bradbury in February, 1920, after it had been abandoned by the former owner. To assist in the rehabilitation of the water system certain residents obligated themselves to pay the sum of \$75, and it was agreed that, should the town be in existence twenty years hence, the water system was then to become town property.

Some \$42 has been paid by those who agreed to advance \$75 toward the rebuilding of the system and applicant has expended \$606 in the replacement of the main supply lines leading from the reservoir.

The water supply is purchased from Northern Water and Power Company at the rate of \$0.15 per miner's inch per 24 hours, or about \$0.007 per 100 cubic feet, and, after being conveyed to the town through a ditch and pipe line, is retailed at from 25 to 50 cents per week. About 13 families are supplied with water for domestic purposes and a few consumers who irrigate small tracts.

Applicant asks permission to establish the following schedule of rates:

Flat Rates.

For each residence, or family, per month.....	\$1 50
For irrigating one-fourth acre, or less, per week.....	50
For irrigating other tracts, per acre per week.....	2 00

No evidence was introduced to show the original cost of the system or the actual investment other than the \$606 set forth above.

Mr. John Spencer, one of the Commission's hydraulic engineers, presented an estimate of reasonable maintenance and operating expense amounting to \$317 per year, which is slightly in excess of the estimated revenues from the collection of the rates desired by the applicant. It therefore appears that the suggested rates are not excessive and should be allowed.

No one appeared to protest the granting of a certificate or the establishment of the desired schedule of rates and it is evident that a certificate should be granted.

ORDER.

W. E. Bradbury having made application for a certificate of public convenience and necessity and for the establishment of rates, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that public convenience and necessity require that W. E. Bradbury be granted a certificate authorizing him, his successors and assigns, to supply water for domestic use to the residents of North San Juan, Nevada County; and

It is hereby further found as a fact that the rates now charged by him for water supplied to consumers in North San Juan are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates to be charged for such service.

And basing the order upon the foregoing findings of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that W. E. Bradbury be granted a certificate of public convenience and necessity authorizing him, his successors and assigns, to supply water for domestic use to consumers in the town of North San Juan; and

It is hereby further ordered, that W. E. Bradbury be and he is hereby authorized and directed to file with this Commission, within twenty (20) days of the date of this order, the following schedule of rates to be charged for all water delivered to consumers subsequent to January 31, 1922:

Flat Rates.

For each residence, or family, per month.....	\$1 50
For irrigating one-fourth acre, or less, per week.....	50
For irrigating other tracts, per acre per week.....	2 00

It is hereby further ordered, that W. E. Bradbury be and he is hereby directed to file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern relations with his

consumers, such rules and regulations to become effective upon their acceptance by this Commission.

Dated at San Francisco, California, this thirtieth day of December, 1921.

DECISION No. 9950.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING AN INCREASE OF RATES FOR WATER SOLD AND DELIVERED THROUGH ITS MOUND SYSTEM IN VENTURA COUNTY.

Application No. 5104.

MOUND WATER COMPANY, A CORPORATION, GEORGE S. SEXTON
AND GEORGE W. HARKEY

vs.

SOUTHERN CALIFORNIA EDISON COMPANY, A PUBLIC UTILITY
CORPORATION.

Case No. 1257.

Decided December 30, 1921.

WATER UTILITY—PRIVATE RIGHT.—It is held that a decision of the Supreme Court constitutes a finding that the service of water to the stockholders of the Mound Water Company is in the nature of a private right and that the rates now charged for such service must be maintained without change.

EXCESS WATER—BASIS OF CHARGES.—The Commission points out that any increase in rates can be applied only to excess water, not required by contract users. It is held that in arriving at a proper basis for a decision, the plant should be considered in its entirety, and a rate established which would be a fair rate if every consumer were a public user.

Aigabrite and Drapeau, by *Louis C. Drapeau*, for Complainant.
Robert M. Clarke and D. W. Cunningham, for Applicant and Defendant.

BY THE COMMISSION.

OPINION.

In Application No. 5104, Southern California Edison Company, a public utility, engaged in the business of furnishing water for irrigation and domestic purposes in the Mound District, lying in the easterly portion of and east of the city of Ventura, asks permission to increase rates. It is alleged in effect that the rates now charged for water do not yield a reasonable return upon the investment.

The complaint in Case No. 1257 alleges in effect that Southern California Edison Company is obligated to deliver to stockholders of the Mound Water Company, upon demand, a constant daily flow of 150 miner's inches of water; that the capacity of defendant's system is only 90 miner's inches; that defendant has supplied water to consumers who are not stockholders in the Mound Water Company, and

that complainants George S. Sexton and George W. Harkey, stockholders in that company, have been denied water service. The Commission is asked to restrain Southern California Edison Company from furnishing water to any persons who are not stockholders in Mound Water Company.

Public hearings in these proceedings were held at Ventura before Examiner Satterwhite, of which all of applicant's consumers were duly notified and given an opportunity to appear and be heard. At these hearings five proceedings, Applications Nos. 5104 and 5949, and Cases Nos. 1257, 1455 and 1461, were consolidated and it was stipulated that the testimony introduced in any proceeding might be considered in the others. However, due to the diversity of the matters involved it has been considered advisable to render separate decisions except in Application No. 5104 and Case No. 1257 which are here consolidated for decision.

The Mound Water Company was a mutual company incorporated in 1904 for the purpose of furnishing water for the irrigation of certain lands situated immediately east of Ventura. The water system of the Mound Water Company was transferred to the Ventura County Power Company in 1907 under an agreement obligating the Ventura County Power Company to furnish to the stockholders of the Mound Water Company, upon demand, a constant flow of 150 miner's inches at the following rates:

A rate of 25 cents per miner's inch per 24 hours for irrigation use.

For domestic service the rate is \$25 per year for 100,000 gallons of water, any excess over that quantity to be paid for at the irrigation rate.

In November, 1917, this water system was transferred by the Ventura County Power Company to Southern California Edison Company, the defendant herein. The water supply for this system is obtained by pumping from two artesian wells into a concrete sump located at the main pumping plant. From this sump water is pumped against a static head of 320 feet through approximately $2\frac{1}{2}$ miles of pipe to a concrete lined reservoir of 2,000,000 gallons capacity. Distribution mains tap this pipe line at various points. The pumping equipment consists of electrically driven deep well and centrifugal pumps.

On July 1, 1918, the Mound Water Company and two of its stockholders brought an action in the Superior Court asking that Southern California Edison Company be restrained from furnishing water to any persons other than the stockholders of the Mound Water Company. A temporary restraining order was granted by the court, but on hearing the order to show cause why an injunction should not be issued, the application was on the sixth day of July, 1918, denied by the court on the ground that jurisdiction in the matter was vested solely in

the Railroad Commission of the State of California. The Supreme Court of the State of California, in a decision handed down January 4, 1921, reversed the decision of the Superior Court, and held "that the Railroad Commission had no power or authority over the water or the water system so far as the water necessary for the use of said stockholders of the Mound Water Company was concerned, and that the Superior Court had jurisdiction of the action."

At the hearing of this matter before the Commission complainants did not substantiate the allegation that the Southern California Edison Company had refused or failed to deliver water as demanded by the stockholders of the Mound Water Company. No proof was submitted that the capacity of the water system is only 90 miner's inches, but on the other hand testimony shows that the capacity is in excess of 150 miner's inches.

Prior to the hearing complainants asked that their complaint be dismissed. This request was, however, not granted by the Commission. At the hearing complainants declined to offer any evidence in support of this complaint, but defendant was permitted to offer evidence.

Applicant presented an appraisal showing an estimated original cost of \$109,628, but waived any claim for rate fixing based upon this valuation, and accepted the findings of the Commission's engineer as a rate base.

The complainants herein, who are also protestants in the matter of the application of Southern California Edison Company for permission to increase rates, presented an appraisal of the system showing an estimated original cost of \$83,863. Mr. D. H. Harroun, one of the Commission's hydraulic engineers, presented a report covering the results of a field investigation, an appraisal of the property, and a study of the cost of maintenance and operation. His appraisal shows an estimated original cost of the property amounting to \$104,317, with a depreciation annuity, computed by the sinking fund method at 6 per cent, of \$1,053. The report also recommended the sum of \$12,001 as a fair and reasonable estimate of the future cost of maintenance and operation.

The following is a summary of the annual charges as indicated above:

Eight per cent return upon \$104,317.....	\$8,345 00
Replacement annuity	1,053 00
Maintenance and operating expenses.....	12,001 00
Total	\$21,399 00

The total revenue from this system for the year 1919 was \$7,231. It would therefore appear that the utility is entitled to an increase in rates.

From the decision of the Supreme Court of the State of California, and after consideration of the testimony in the present proceeding, it appears that Southern California Edison Company is obligated to furnish water on demand to the stockholders of the Mound Water Company at the rates set forth in the agreement covering the transfer of the water system to the Ventura County Power Company. It further appears that 150 miner's inches of water is not always demanded or required by the stockholders of the Mound Water Company. It therefore appears reasonable that Southern California Edison Company should be permitted to furnish to any applicants therefor such surplus water as the system can supply after caring for its obligations to the stockholders of the Mound Water Company. The decision of the State Supreme Court constitutes a finding that the service of water to the stockholders of the Mound Water Company is in the nature of a private right, and that the rates now charged for such service must be maintained without change. Any increase in rates granted by this Commission can, therefore, only be applied to such excess water as is delivered to consumers who are not stockholders of the Mound Water Company. To place a rate on this excess water which would, together with the revenues at the low contract rates, return to applicant the annual charges set out above, would necessitate the fixing of charges which would be exorbitant and prohibitive. In arriving at a proper basis for a decision, the plant should be considered in its entirety, and the reasonable maintenance and operating expenses thereon, together with a depreciation annuity on the whole, has been computed. Obviously the most reasonable and simple method of achieving this result will be to establish what would be a fair rate if every consumer were a public user. In so doing it assesses to public service consumers rates which are in proper proportion to the fixed charges.

After a careful consideration of all the elements entering into this matter, the following order is designed to establish proper rates for public utility service rendered by Southern California Edison Company through its Mound System.

ORDER.

Southern California Edison Company having made application to this Commission for permission to increase the rates charged for water supplied to consumers on its Mound System, and Mound Water Company, George S. Sexton and George W. Harkey having made complaint against the service rendered by Southern California Edison Company, public hearings having been held thereon and the matters having been submitted:

It is hereby found as a fact that the rates now charged by Southern California Edison Company for water supplied to public utility consumers under the Mound System are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

It is hereby further found as a fact that no showing has been made that the demands for water of stockholders of the Mound Water Company have not been fulfilled, and that Southern California Edison Company may supply any surplus water developed by its Mound System after the contract requirements of stockholders of the Mound Water Company have been supplied.

And basing the order upon the foregoing findings of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that Southern California Edison Company be and it is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order the following schedule of rates to be charged for public utility water service through its Mound Water System, such rates to be charged for all service rendered subsequent to January 31, 1922.

Irrigation Rates.

Per miner's inch run for 24 hours, which is equivalent to 1728 cubic feet.... \$0 50

Domestic Rates.

Minimum monthly charges:

½-inch meters	-----	\$1 00
¾-inch meters	-----	1 25
1 -inch meters	-----	1 75
1½-inch meters	-----	2 50
2 -inch meters	-----	3 00
3 -inch meters	-----	4 00
4 -inch meters	-----	5 00

For all water used:

From 0 to 500 cubic feet per month, per 100 cubic feet	-----	\$0 25
From 500 to 1,000 cubic feet per month, per 100 cubic feet	-----	20
From 1,000 to 3,000 cubic feet per month, per 100 cubic feet	-----	15
From 3,000 to 10,000 cubic feet per month, per 100 cubic feet	-----	10
From 10,000 to 30,000 cubic feet per month, per 100 cubic feet	-----	08
Over 30,000 cubic feet per month, per 100 cubic feet	-----	05

It is hereby further ordered, that Southern California Edison Company file with this Commission within thirty (30) days from the date of this order rules and regulations governing relations with its consumers, such rules and regulations to become effective upon their acceptance by the Commission.

It is hereby further ordered, that the complaint of Mound Water Company, a corporation, George S. Sexton and George W. Harkey be and the same is hereby dismissed.

Dated at San Francisco, California, this thirtieth day of December, 1921.

DECISION No. 9953.

IN THE MATTER OF THE APPLICATION OF JAMES O. STROING,
HARRY L. STROING, ROSA E. STROING AND HENRY STROING,
DOING BUSINESS UNDER THE NAME AND STYLE OF LAS FLORES
WATER WORKS, FOR CHANGE OF WATER RATES.

Application No. 7178.

Decided December 30, 1921.

W. A. Fish, for Applicant.
F. C. Pugh, for certain consumers.

BY THE COMMISSION.

OPINION.

Applicants herein allege that the present rate schedule does not produce sufficient revenue to provide for operating expense, depreciation and a reasonable return upon a fair value of the property.

A public hearing was held before Examiner Westover at Las Flores, of which all interested parties were notified and given an opportunity to appear and to be heard.

This water system supplies 43 consumers located in Las Flores, Tehama County, and consists of a 12-inch well having a total depth of 238 feet, a centrifugal pump in a concrete lined pit, a 5-horsepower electric motor, a redwood tank of 11,000 gallons capacity on a 30-foot tower, and approximately 3500 feet of distribution pipes of 2 and 4 inch diameter.

The present rates charged by the utility are as follows:

Residences and tenements, per month-----	\$1 25
Water for irrigation of lots of not more than 40 by 130 feet in size, per month	50

Applicants introduced testimony to the effect that the original cost of the system was approximately \$4,000.

Mr. C. H. Monett, one of the Commission's hydraulic engineers, presented a report which showed the estimated original cost of the water system to be \$4,351, and a depreciation annuity computed by the sinking fund method amounting to \$117. Mr. Monett's estimate of reasonable annual maintenance and operating expense was \$780, of which \$600 was allowed for the services of an operator at \$50 per month.

This item was the subject of vigorous protest by consumers who claimed that a competent person could be secured at a lower cost. A careful consideration of the evidence on this point leads to the conclusion that an allowance of \$660 per year will reasonably cover maintenance and operating expense.

The annual charges based upon the foregoing items are then as follows:

Return at 8 per cent upon \$4,351.....	\$348 00
Depreciation annuity	117 00
Maintenance and operating expense.....	660 00
Total	\$1,125 00

Revenues for the year 1921 are estimated as \$533 and it is apparent that applicants are entitled to an increase in rates. Testimony shows, however, that the water system is still in its development stage and it is clear that rates sufficiently high to return the full annual charges set out above would place too heavy a burden upon the consumers. The rate schedule set out in the accompanying order is, therefore, designed to do substantial justice to both the utility and the consumers.

Testimony shows that some seven consumers on the system are served through a single $\frac{3}{4}$ -inch pipe extension, and that the supply to these persons is frequently inadequate. Applicants stated that this condition would be remedied in the near future.

ORDER.

Application having been made as entitled above, a public hearing having been held and the matter having been submitted:

It is hereby found as a fact that the rates now charged by Las Flores Water Works, for water supplied to consumers in Las Flores, are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates to be charged for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that James O. Stroing, Harry L. Stroing, Rosa E. Stroing and Henry Stroing, doing business under the name and style of Las Flores Water Works, be and they are hereby authorized and directed to file with this Commission, within twenty (20) days from the date of this order, the following schedule of rates to be charged for water delivered to consumers in Las Flores, Tehama County, such rates to become effective for all water delivered subsequent to January 31, 1922:

Rate Schedule.

Flat rates:

Residences of not more than five rooms, without bathtub or toilet.....	\$1 25
For each toilet.....	25
For each bathtub.....	25
For each additional room.....	10
For each private barn, not more than two horses or cows.....	50
For each additional horse or cow.....	20
Private boarding houses, for each boarder in addition to the family.....	10
Irrigation of lawns, shrubbery, gardens, etc., payable each month in the year, per 100 square feet.....	03
Stores and shops, according to the use of water, per month.....	\$1 00 to 3 00
Barber shops, for single chair.....	1 25
For each additional chair.....	25
For each garage, when automobiles are washed on the premises.....	25

It is hereby further ordered, that applicants herein file with this Commission within thirty (30) days from the date of this order rules and regulations governing relation with consumers, such rules and regulations to become effective upon their acceptance by this Commission.

Dated at San Francisco, California, this thirtieth day of December, 1921.

DECISION No. 9957.

IN THE MATTER OF THE APPLICATION OF THE WILLITS TELEPHONE AND TELEGRAPH COMPANY FOR AUTHORITY TO INCREASE RATES FOR TELEPHONE SERVICE.

Application No. 5641.

IN THE MATTER OF THE APPLICATION OF THE WILLITS TELEPHONE AND TELEGRAPH COMPANY FOR AUTHORITY TO ABANDON SERVICE ON A PORTION OF ITS LINES.

Application 7273.

Decided December 31, 1921.

TELEPHONE COMPANY—DEPRECIATION.—The Commission points out that lack of provision for the replacement of property due to depreciation is an unsound policy.

SERVICE, ABANDONMENT OF.—As part of the expense of maintaining an unprofitable line falls on users of other parts of the system, it is held to be more just and equitable to all subscribers to permit the abandonment of the losing line.

George H. Ells, H. B. Muir and Merrill Williams, for Applicant.

BY THE COMMISSION.

OPINION.

The Willits Telephone and Telegraph Company, hereinafter referred to as the company, in Application No. 5641, requested authority from the Commission to increase its telephone rates for exchange service, alleging that this increase is necessary on account of the increased cost

of labor. A subsequent application was filed by the company, and assigned Application No. 7273, in which it asked authority to abandon service over its line running from the junction of the Westport road and the Wilderness Lodge road to the town of Westport. The company states that there is only one telephone on this line and it is near Westport. These two proceedings were consolidated for hearing and decision.

A hearing was held in Laytonville by Examiner Satterwhite on December 28, 1921.

The company furnishes telephone service in the towns of Laytonville, Longvale, Branscomb, Dos Rios and Covelo and in the surrounding territories. It has lines between these towns, a line to Willits and one to Westport. One central office is located in Laytonville and one in Covelo. The so-called local service is furnished from these two exchanges. Long distance connections with the system of The Pacific Telephone and Telegraph Company are made at Willits and at Westport.

The present rates have been in effect for many years and are as follows:

Exchange service.

Business, wall or desk telephone, per month.....	\$2 00
Residence, wall or desk telephone, per month.....	1 50

These rates entitle subscribers to free connections with all points on the company's system. The company furnishes only one classification of service. This would correspond to 10-party suburban service.

Toll service to nonsubscribers.

From Willits to Laytonville, 3 minutes.....	\$0 25
From Willits to Longvale, Branscomb, Westport, Dos Rios and Covelo, 3 minutes	35

Overtime is paid for at the rate of 10 cents for each additional minute or fraction thereof over the initial 3-minute period.

The company requests permission to increase its exchange service rate 50 cents per month for both business and residence telephones, the toll rates to remain as at present. It did not submit an inventory and appraisal of its property and a trial balance was the only statement presented concerning its revenue and expenses.

An inventory and appraisal of the company's property was made by the Commission's engineers. These were submitted at the hearing. The company states that the net additions to plant since August 1, 1920, the date of the appraisal, were negligible. After a careful analysis of this valuation and making allowance for the line which will be abandoned, we find the fair valuation of this property amounts to \$15,600 and we use this as a proper rate base.

The revenue and expenses of the company were analyzed by our engineers. This analysis indicated that for the year ending June 30, 1921, the net income, exclusive of interest deductions, amounted to \$415.96. The revenue amounted to \$3,767.19 and the expenses, including taxes and rent deductions (but making no allowance for depreciation reserves), amounted to \$3,351.23. The company, therefore, received a return of approximately 2.7 per cent upon the above rate base during this period. A careful estimate of the revenue and expenses for the coming year, with the present rates in effect, has been made. We do not anticipate an appreciable increase in the volume of business in this territory during this period. The company may reasonably expect revenue amounting to \$3,800 and the expenses, including \$600 for depreciation, will amount to approximately the same figure. It is apparent, therefore, that an increase in rates is justified.

The rate structure requested by the company and authorized in the order should yield a gross revenue of approximately \$4,550 during the coming year while the expenses will be about \$3,800, leaving a net income of \$750. While this yields only 4.8 per cent upon the rate base, we feel that a further raise in rates would result in a loss of business, thereby defeating the purpose of the increase.

Depreciation.

The company has been making no provision for the replacement of property made necessary by depreciation. The Commission, in many decisions, has expressed the opinion that this is an unsound policy and we will require the company to set by a sum in a fund for this purpose.

Abandonment of service.

The line over which the company desires to abandon service extends westward for a distance of about twelve miles from the junction of the Wilderness Lodge road and the Westport road to the town of Westport. The country traversed by it is mountainous and heavily wooded and the only subscriber on it is located within a few miles of Westport.

Obviously, the greater part of the expense of maintaining service on this line must be borne by the other subscribers on the system. Since connections with Westport can be made via Willits, abandonment of the line would not prevent communication with the former town, but the subscribers desiring this service would have to pay a toll charge for it. The company testified that the total toll revenue derived from this line during the past year amounted to \$6.65 and that the number of calls made over it by subscribers of the system did not average more than two or three calls per month. It stated further that the one subscriber on this line could receive farmer line service from Westport.

After weighing the evidence in this matter, we are of the opinion that it is more just and equitable to all the subscribers on the system to abandon this portion of the line, than to continue the service, and authorize the company to discontinue it in the following order.

Accounting methods.

The accounting methods used by the company do not conform to the Commission's Classification of Accounts for Telephone Companies. The present system does not show the true condition of affairs of the company without a thorough analysis of the revenue and expenses. We will require the accounts to be kept as prescribed by the Commission for companies of this size.

ORDER.

Willits Telephone and Telegraph Company having filed with this Commission its application for an increase in exchange rates for telephone service and for authority to abandon service over its line from the junction of the Westport road and the Wilderness Lodge road to the town of Westport, a public hearing having been held, the matter having been submitted and the Commission, basing its conclusions on the foregoing opinion, finding as a fact that the rates authorized are just and reasonable and that the interests of the communities involved are best served by the abandonment of service over the above described line;

It is hereby ordered, that the company is hereby authorized to file with the Commission within thirty (30) days from the date of this order the following schedule of rates which, upon approval, may be made effective:

Exchange service, 10-party suburban.

Business, wall, per month.....	\$2 50
Residence, wall, per month.....	2 00
Desk telephones are 25 cents additional per month.	

The above rates entitle subscribers to free connections with all points on applicant's system.

Toll service to nonsubscribers.

The present rates for toll service, as set forth in the opinion, shall remain in effect.

These rates may be made effective subject to the following conditions:

1. Adequate and efficient telephone service shall be furnished at all times.

2. The company shall set aside into a depreciation fund the sum of \$600 per annum in monthly installments of \$50 for the purpose of taking care of such renewals and replacements as shall be covered by the fund. Suggestions for rules governing the functions and use of

the depreciation fund shall be filed with the Commission by the company within thirty (30) days from the date of this order and these rules shall thereafter go into effect as approved or modified by the Commission.

It is hereby further ordered, that the company is hereby authorized to abandon service on that portion of its line for which application for abandonment was made and as set forth in the preceding opinion.

Dated at San Francisco, California, this thirty-first day of December, 1921.

DECISION No. 9958.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING AN INCREASE OF RATES FOR WATER SOLD AND DELIVERED THROUGH ITS WATER SYSTEM OPERATED BY IT IN THE CITY OF SAN BUENAVENTURA AND ADJACENT TERRITORY.

Application No. 5949.

Decided December 31, 1921.

WATER UTILITY—PRIVATE RIGHTS—BASIS OF RATE-FIXING.—It is held that where water is served at rates fixed in deeds conveying water, riparian rights and rights of way, these rates are in the nature of private rights and not subject to change. Rates fixed by the Commission can apply only to public utility consumers and the rates fixed must be so designed as to assess to these public service consumers payments for service which are in proper proportion to the annual charges.

H. F. Orr, Don C. Bourker and L. C. Drapeau, for Protestants.
Robert M. Clarke and D. W. Cunningham, for Applicant.

BY THE COMMISSION.

OPINION.

Southern California Edison Company, applicant herein, is a public utility corporation supplying water for domestic, industrial and municipal purposes in the city of San Buenaventura, commonly known as the city of Ventura, Ventura County. The company also supplies water for irrigation purposes along Ventura avenue between the city and the company's dam on the Ventura River.

Applicant asks authority to increase its rates charged for water service, alleging in effect that the rates now charged do not yield sufficient revenue to pay the expenses of operating the system and afford no return to applicant upon its investment.

Public hearings were held in the above proceeding before Examiner Satterwhite at Ventura, of which all interested parties were notified and given an opportunity to appear and to be heard. At these hearings five proceedings, Applications Nos. 5949 and 5104 and Cases Nos. 1455, 1461 and 1257, were consolidated and it was stipulated that the testi-

mony introduced in any proceeding might be considered in the others. However, due to the diversity of the matters involved it has been considered advisable to render separate decisions.

In 1869 a franchise was granted for the right to serve the city of Ventura with water for a period of fifty years. In 1871 this franchise was assigned to Thomas R. Bard and W. S. Chaffee, who in turn assigned it in 1874 to the Santa Ana Water Company, which was incorporated in 1870. The Ventura Land and Water Company was incorporated to deal in the lands and water of the Santa Ana Water Company. These two companies continued in existence until their purchase in 1901 by Adams, Phillips and Brotherton who founded the Ventura Light and Power Company. The Adams-Phillips interests were purchased by the Ventura County Power Company in 1906 and the Pacific Light and Power Company secured a controlling interest in the Ventura County Power Company in 1914. The holdings and interests of the Ventura County Power Company were transferred to Southern California Edison Company in 1917.

The water supply is obtained by pumping from a sump in the bed of the Ventura River, constructed against the upper side of the Casitas submerged dam. Water is pumped directly into the mains and a constant pressure is maintained through the use of three balancing reservoirs. Distribution mains tap the transmission line at various points between the Casitas dam and the city of Ventura. A booster unit is operated at the Poli street plant for the purpose of increasing the pressure at high points in the eastern part of the city. A part of the water for irrigation use is pumped from the Ventura River at the Gosnell Hill plant. The pumping equipment consists of electrically driven pumps. The utility supplies approximately 1280 domestic consumers and about 50 irrigation users.

Applicant presented an appraisal showing an estimated original cost of \$333,629, but waived any claim for rate fixing based upon this valuation and accepted the findings of the Commission's engineer as a rate base.

Protestants presented an appraisal showing an estimated original cost of \$140,435 and a proposed substitutional plant system at an estimated cost of \$37,155.

Protestants' appraisals are not comparable with the appraisals of Southern California Edison Company and the Railroad Commission's engineer as they only include the property from and including Casitas dam to a point on Ventura avenue opposite the Mill schoolhouse, and do not include the distribution system in the city of Ventura.

At the hearing Mr. D. H. Harroun, one of the Commission's hydraulic engineers, presented a report covering a field investigation and appraisal of the physical properties of the utility, together with a maintenance and operation study.

This report shows the estimated original cost of all utility property to be \$305,409, and recommends \$1,923 as a proper replacement annuity computed by a 6 per cent sinking fund method. This report also recommends the sum of \$23,720 as a fair and reasonable estimate of the future operation and maintenance expenses. These estimates appear reasonable and will be used for the purpose of this proceeding.

The following is a summary of the annual charges as indicated above:

Eight per cent return upon \$305,409.....	\$24,433 00
Replacement annuity, 6 per cent sinking fund method.....	1,923 00
Maintenance and operation expense.....	23,720 00
Total estimated annual charges.....	\$50,076 00

The total revenue from the sale of water on this system for the year 1919 was \$23,618, and averaged \$19,910 for the four preceding years. It does not appear that there is reason to expect any notable increase in business in the near future. It is evident, therefore, that authority to increase rates should be granted.

Service of water to a few consumers is at rates fixed in certain deeds conveying water and riparian rights and rights of way to the predecessors in interest of the applicant herein, and it is evident that the rates so established are in the nature of private rights rather than for a public service and that they must be maintained without change. Any increase in rates granted by this Commission can, therefore, only be applied to such water as is delivered to the public utility consumers, and the rates fixed must be so designed as to assess to these public service consumers payments for service which are in proper proportion to the annual charges. Obviously the most reasonable and simple method of achieving this result will be to establish what would be a fair rate if every consumer were a public user.

The schedule of rates established in the following order is reasonable and it is estimated that the utility would receive a return approximately equal to the annual charges set out above if the rates so established were applied to all the consumers on the system.

Domestic users are now supplied at flat rates ranging from \$1 per month upward. Irrigation rates are 25 cents per miner's inch day, or about $1\frac{1}{2}$ cents per hundred cubic feet. It appears advisable to install meters, and a meter rate will therefore be established.

ORDER.

Southern California Edison Company having applied to the Railroad Commission for authority to increase the rates charged by it for water service in the city of Ventura and adjacent territory, Ventura County, public hearings having been held and the matter having been submitted:

It is hereby found as a fact that the rates and charges of the Southern California Edison Company, for water delivered consumers in the city of Ventura and vicinity, in so far as they differ from the rates herein established, are unjust and unreasonable, and that the rates and charges herein established are just and reasonable rates to be charged for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the opinion which precedes this order:

It is hereby ordered, by the Railroad Commission of the State of California that Southern California Edison Company be and it is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order the following schedule of rates, such rates to be charged for all service rendered subsequent to January 31, 1922:

Flat Rates.

The schedule of flat rates will remain as at present in effect.

Measured Rates.

Minimum monthly charges:

½-inch meters	-----	\$1 00
¾-inch meters	-----	1 25
1-inch meters	-----	1 75
1½-inch meters	-----	2 50
2-inch meters	-----	3 00
3-inch meters	-----	4 00
4-inch meters	-----	5 00

Quantity rates:

From 0 to 500 cubic feet per month, per 100 cubic feet	-----	\$0 25
From 500 to 1,000 cubic feet per month, per 100 cubic feet	-----	20
From 1,000 to 3,000 cubic feet per month, per 100 cubic feet	-----	15
From 3,000 to 10,000 cubic feet per month, per 100 cubic feet	-----	10
From 10,000 to 30,000 cubic feet per month, per 100 cubic feet	-----	08
Over 30,000 cubic feet per month, per 100 cubic feet	-----	05
For street sprinkling, per wagon per month, for each month when sprinkling is done	-----	12 50
Fire hydrants, per month, each	-----	1 00

Irrigation rate on Ventura avenue:

Irrigation rate per miner's inch per 24 hours, which is equivalent to 1728 cubic feet	-----	35
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Provided, however, the foregoing schedule shall not apply to service of water by the Southern California Edison Company to the grantors,

and their successors in interest, of the following deeds in so far as such service is required by the terms of said deeds:

1. Deed from Walter S. Chaffee et al. to The Santa Ana Water Company, dated March 2, 1874. Recorded in book 1 of deeds at page 637.
2. Deed from V. Ustusastigui et al. to The Santa Ana Water Company, dated March 6, 1874. Recorded in book 1 of deeds at page 652.
3. Memorandum—As modified by memorandum dated March 17, 1910. Recorded in book 123, page 232 of deeds of Ventura County.
4. Deed from I. C. Barron to The Santa Ana Water Company, dated March 7, 1874. Recorded in book 1 of deeds at page 676 et seq.
5. Deed from J. Willett et al. to Santa Ana Water Company, dated March 9, 1874. Recorded in book 1 of deeds at page 686 et seq.
6. Deed from W. R. H. Weldon, Hannah L. Weldon and Jane A. Weldon to Santa Ana Water Company, dated February 11, 1888. Recorded in book 23 of deeds at page 514.
7. Indenture made March 2, 1874, between Tadeo Amat, Bishop of Monterey and Los Angeles, as trustee of the property of the Roman Catholic Church in California, and The Santa Ana Water Company. Recorded March 7, 1874, at request of Santa Ana Water Company.

It is hereby further ordered, that Southern California Edison Company file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern its relations with its consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this thirty-first day of December, 1921.

DECISION No. 9959.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO-OAKLAND TERMINAL RAILWAYS FOR AN ORDER FOR PERMISSION TO SUSPEND OPERATION FOR THE PERIOD OF TEN (10) YEARS FOR THE PORTION OF ITS RAILWAY SYSTEM IN THE CITY OF EL CERRITO, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA.

Application No. 7314.

Decided December 31, 1921.

BY THE COMMISSION.

OPINION.

San Francisco-Oakland Terminal Railways, a corporation, applies herein for authority of this Commission permitting the suspension of the operation of street railway service for a period of ten (10) years without prejudice to the resumption of operation and service at any time within said ten (10) years period over the following described portion of its system in the city of El Cerrito, County of Contra Costa, State of California:

Beginning at the point of intersection of the center line of San Pablo avenue with the southern boundary line of the city of Richmond, said point of intersection being situated about four hundred and forty (440) feet southerly measured along the center line of said San Pablo avenue from the southern line of Macdonald avenue produced easterly; and running thence southerly from said point of intersection along the center line of said San Pablo avenue a distance of four thousand four hundred and thirty-five (4435) feet, more or less, to the existing railway track which curves westward from San Pablo avenue into Potrero avenue.

The suspension of operation, authority for which is herein requested, is for a further suspension following that heretofore granted by the Railroad Commission in its Decision No. 3801 on Application No. 2392 as decided October 19, 1916 (Opinions and Orders of the Railroad Commission of the State of California, Volume 11, Page 612), such authorized suspension being for the term of five (5) years and such term expiring October 19, 1921.

Since the former proceeding in which suspension of operation for a term of five (5) years was granted the portion of the county of Contra Costa in which the portion of the applicant's system of railway for which suspension of operation is requested is located, has become a portion of the municipality of El Cerrito and applicant herein has obtained permission of the board of trustees of the city of El Cerrito for the continued suspension of operation for a period of ten (10) years as is evidenced by a copy of Resolution No. 68 adopted by the board of trustees of the city of El Cerrito, on October 7, 1921, filed herein as Exhibit "A" attached to the application in this proceeding.

We are of the opinion that this is a matter in which a public hearing is not necessary and that the application should be granted.

We do not herein pass upon the effect of Resolution No. 68 of the board of trustees of El Cerrito as adopted on October 27, 1921, upon the franchise as granted by the board of supervisors of Contra Costa County on September 6, 1904, to W. S. Rheem, his successors in interest and assigns.

ORDER.

San Francisco-Oakland Terminal Railways having applied to the Railroad Commission for an order authorizing the suspension of operation of a portion of its system of street railway in the city of El Cerrito, county of Contra Costa, as more fully described in the opinion preceding this order, such suspension of operation and service to continue for a period of ten (10) years, without prejudice, however, to the resumption of operation and service at any time within said ten (10) year period; the Commission being fully advised and of the opinion that this is not a matter in which a public hearing is necessary;

It is hereby ordered, that this application be and the same is hereby granted.

The Railroad Commission reserves the right to make such other and further orders in this proceeding as to it appears right and proper or as, in its opinion, the public convenience and necessity may require.

Dated at San Francisco, California, this thirty-first day of December, 1921.

DECISION No. 9961.

IN THE MATTER OF THE APPLICATION OF WOODLAKE WATER COMPANY FOR PERMISSION TO INCREASE WATER RATES.

Application No. 7053.

Decided January 4, 1922.

WATER UTILITY—SERVICE—GATE VALVES.—To avoid shutting off water on the entire system during repairs, gate valves upon lateral pipe lines are recommended.

Farnsworth, McClure and Burke, by *H. B. McClure*, for Applicant.
J. G. Ropes, W. S. Bean and E. I. Toust, a committee representing consumers.

BY THE COMMISSION.

OPINION.

Woodlake Water Company, a corporation engaged in supplying water for domestic purposes in the unincorporated town of Woodlake, Tulare County, makes application for permission to increase its rates, alleging that the present flat rate charges of \$1 per month do not provide compensatory returns for the service rendered.

A public hearing was held in Woodlake, before Examiner Satterwhite, of which all interested parties were notified and given an opportunity to be present and to be heard.

The townsite of Woodlake was laid out and a water system constructed in 1910. In 1919 the ownership of the remaining lots in the townsite and the water system passed to the Red Mountain Fruit Company, the name being changed to Woodlake Water Company in 1920.

The water system consists of a 10-inch well 75 feet deep, two 3-inch centrifugal pumps, two 10-horsepower electric motors, a 22,000 gallon steel storage tank, and 14,457 feet of 4 and 6 inch diameter riveted steel distribution pipes. About 66 consumers are supplied at the present time.

Mr. John Spencer, one of the Commission's hydraulic engineers, presented a report of an investigation of the system, setting forth an estimated original cost of \$9,795, a depreciation annuity of \$208, and an estimated reasonable maintenance and operating expense of \$1,105 per annum.

Applicant claimed that the expenditures for maintenance and operating expenses for the first eleven months of 1921 were \$1,117. It was shown, however, that this amount included the costs of some replacements and other items which should have been charged to capital. The installation of automatic control devices on the pumps will reduce power bills to some extent and such installation is recommended.

Annual charges based upon the report of Mr. Spencer are as follows:

Return at 8 per cent upon \$9,795-----	\$ 783 00
Depreciation annuity -----	208 00
Maintenance and operating expense-----	1,105 00
Total -----	\$2,096 00

Complete records of revenue have not been kept by the applicant but it is estimated that \$696 per year would be received at the present rates if all collections were made.

In spite of the fact that applicant does not at this time ask for any appreciable return upon the investment, it is apparent that an increase in rates is justified, and the rate schedule set out in the accompanying order is designed to do substantial justice to both the utility and the consumers.

Some complaint by consumers was presented at the hearing that water was sometimes shut off from the entire town while repairs were being made to the pipe lines. This condition could be avoided in a large measure by the installation of gate valves upon the lateral pipe lines. This improvement should be made without delay.

ORDER.

Woodlake Water Company having made application for permission to increase rates, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that the rates now charged by Woodlake Water Company for water delivered to its consumers in Woodlake, Tulare County, are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that Woodlake Water Company be and it is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order, the following schedule of rates, to be charged for all service rendered subsequent to January 31, 1922:

Monthly Flat Rates.

1. Residences, boarding houses, flats, lodging houses, apartments, of five rooms and less.....	\$1 25
For each additional room.....	15
Additional for each bathtub.....	25
Additional for each toilet.....	25
Additional for each private barn or garage with one head of stock or one automobile.....	25
Additional for each head of stock or automobile over one.....	20
2. Sprinkling or irrigation of lawns, gardens, shrubbery, etc., when taken continuously, per 100 square feet.....	035
Sprinkling or irrigation of lawns, gardens, shrubbery, etc., when not taken continuously, per 100 square feet.....	07
3. Blacksmith shops, bakeries, bank offices, club rooms, grocery stores, lumber yards, machine shops, printing offices, meat markets, theaters, warehouses, drygoods stores, fraternal halls, professional offices, stores, and offices not otherwise listed.....	1 50
4. Ice cream parlors, soft drink establishments, drug stores, billiard parlors (either alone or in connection with other business).....	2 00
5. Restaurants, lunch counters, per unit of seating capacity.....	10
6. Barber shop, per chair.....	1 00
Additional for each bathtub.....	1 00
7. Laundries, according to use.....	\$2 00 to 5 00
8. Hotel, dining room.....	2 00
Additional for each bedroom.....	10
9. Public garages, 5 autos or less.....	2 00
10. Stables and feed yard, per average number of stock fed, each.....	25
11. Additional for each bathtub, toilet or urinal, in 3 to 10 inclusive.....	25
12. Minimum monthly charge for each service connection.....	1 50

Meter Rates.

Minimum monthly charge.....	\$1 25
First 1000 cubic feet, per 100 cubic feet.....	25
Over 1000 cubic feet, per 100 cubic feet.....	20

It is hereby further ordered, that Woodlake Water Company be and it is hereby directed to file with the Railroad Commission, within thirty (30) days from the date of this order, rules and regulations governing its relations with the consumers, said rules and regulations to become effective upon their acceptance for filing by the Commission.

Dated at San Francisco, California, this fourth day of January, 1922.

DECISION No. 9964.

IN THE MATTER OF THE APPLICATION OF EAST BAY WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING ISSUE OF CLASS "A" SIX (6) PER CENT CUMULATIVE PREFERRED STOCK.

Application No. 7430.

Decided January 4, 1922.

WATER UTILITY—FUNDED DEBT—STOCK ISSUE.—It is held that there is no objection to the refunding of funded debt through the issue of stock as proposed in this case, provided a company's properties are reasonably capitalized. It is found that applicant's properties are capitalized in such a manner that permission may be granted.

McKee, Tasheira and Wahrhaftig, by *A. Tasheira*, for Applicant.

ROWELL, Commissioner.

OPINION.

Applicant asks permission to issue \$333,715.10, par value, of its Class "A" 6 per cent cumulative preferred stock to reimburse its treasury on account of moneys used, or to be used, for sinking fund payments and to pay for additions and betterments.

The testimony shows that Cyrus Peirce and Company have agreed to purchase \$300,000 par value (3000 shares) of the stock at \$77 per share and accrued dividends. The order herein will authorize the sale of the 3000 shares at the price mentioned. The remainder of the stock covered in this application, namely \$33,715.10, may be sold only at such minimum price as the Commission may hereafter determine by a supplemental order.

Under its unifying and refunding mortgage, applicant can ask the trustee to certify bonds equal in face amount to 75 per cent of the cost of additions and betterments, provided of course, it complies with the conditions mentioned in the unifying and refunding mortgage. Applicant has filed a statement in which it reports \$547,171.87 of actual or estimated expenditures for additions and betterments from January 1, 1921, to December 31, 1921. The \$547,171.87 includes \$80,000 of estimated expenditures for December. If we assume that 25 per cent of the 1921 construction expenditures are financed through the issue of stock, applicant will have to issue stock in the amount of \$136,792.96. The Commission by Decision No. 9655 authorized applicant to issue \$63,225.86 par value of stock. Deducting the \$63,225.86 from the \$136,792.96 leaves a balance of \$73,567.10, which amount is included in the \$333,715.10 of stock covered in this application.

Applicant has not submitted any detailed information regarding its estimated construction expenditures during December, 1921. The order

herein, as stated, will permit of the sale at this time of only \$300,000 of stock applied for. The remaining \$33,715.10 par value of stock which may not be sold except at such minimum price as the Commission may hereafter determine, represents more than 25 per cent of the company's estimated December construction expenditures. At the time that applicant requests permission to sell the \$33,715.10 par value of stock, it should file with the Commission a detailed statement of its December construction expenditures and the Commission will thereafter determine the purposes for which the company may use the proceeds obtained from the sale of the \$33,715.10 par value of stock.

Applicant reports sinking fund payments as follows:

January 1, 1921	-----	\$132,019 00
January 1, 1922	-----	128,129 00
Total	-----	\$260,148 00

These payments, it appears, have been made or will be made pursuant to applicant's deed of trust executed to the Union Trust Company of San Francisco on January 1, 1916, and its deed of trust executed to the Mercantile Trust Company on September 1, 1921. Under its deeds of trust, applicant can make the sinking fund payments either in cash or in bonds. The record shows that of the \$260,148, \$13,148 represents cash payments and \$247,000 was paid in bonds.

In effect, applicant asks permission to substitute Class "A" 6 per cent stock for 5½ per cent first mortgage bonds outstanding. There is no objection to the refunding of funded debt through the issue of stock, as proposed by applicant, provided a company's properties are reasonably capitalized. If the capitalization is in excess of the reasonable value of the properties, surplus earnings should be used to pay funded debt, and no stock issued to reimburse the treasury of a company because it used such earnings to meet sinking fund payments. I find that applicant's properties are capitalized in such a manner that the Commission may properly permit of the refunding of the sinking fund payments as requested.

I herewith submit the following form of order:

ORDER.

East Bay Water Company having applied to the Railroad Commission for permission to issue \$333,715.10 par value of its Class "A" 6 per cent cumulative preferred stock, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of such stock is reasonably required by applicant and that the expenditures herein authorized are

not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that East Bay Water Company be and it is hereby authorized to issue on or before October 1, 1922, \$333,715.10 par value of its Class "A" 6 per cent cumulative preferred stock.

The authority herein granted is subject to further conditions as follows:

1. Of the stock herein authorized to be issued, applicant may sell \$300,000 par value (3,000 shares) at not less than \$77 and accrued dividends net per share. The remainder of the stock may be sold only at such minimum price as the Railroad Commission may hereafter authorize by supplemental order.

2. The proceeds from the sale of the \$300,000 of stock may be used by applicant to reimburse, in part, its treasury on account of construction expenditures incurred on or before November 30, 1921, and to reimburse itself on account of sinking fund payments referred to in this application. The Commission will hereafter determine the purposes for which the proceeds obtained from the sale of \$33,715.10 par value of stock may be used.

3. East Bay Water Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourth day of January, 1922.

DECISION No. 9969.

IN THE MATTER OF THE APPLICATION OF ROSEVILLE TELEPHONE
COMPANY FOR ORDER AUTHORIZING ISSUE OF STOCK.

Application No. 7412.

Decided January 6, 1922.

W. H. Hanisch, for Applicant.

BRUNDIGE, Commissioner.

OPINION.

Roseville Telephone Company in this application asks for permission to issue and sell, at par, \$4,520 of its capital stock.

Applicant owns and operates a telephone system in and about the city of Roseville, Placer County, reporting at present approximately 750 subscribers. It reports that all but \$4,520 of its authorized stock issue of \$25,000 is outstanding.

The application shows that subsequent to March 1, 1917, and prior to May 15, 1921, applicant to take care of its increasing business, expended for extensions, additions and betterments to its plant and properties, the sum of \$4,524.29, for which it now seeks to reimburse itself in part by the issue of \$4,520 of stock. W. H. Hanisch, applicant's manager, testified that approximately \$2,350 of the \$4,524.39 was obtained from surplus earnings and that the balance was obtained from its reserve for accrued depreciation. His testimony shows that it is the company's intention to use the money obtained from the sale of the stock herein applied for, after reimbursing itself, to pay the cost of further extensions, additions and betterments.

Mr. Hanisch stated that in his opinion no difficulty would be encountered in disposing of the stock covered in this application.

I herewith submit the following form of order:

ORDER.

Roseville Telephone Company having applied to the Railroad Commission for permission to issue \$4,520 of stock, a public hearing having been held and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified herein and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Roseville Telephone Company be and it is hereby authorized to issue and sell, at not less than par, on or before June 30, 1922, \$4,520 of its capital stock.

The authority herein granted is subject to the following conditions:

1. The proceeds from the sale of the stock herein authorized shall be used by applicant to reimburse itself for moneys expended for the extensions, additions and betterments referred to in the preceding opinion, and after such reimbursement must be used to pay the cost of plant extensions, additions and betterments, or the cost of replacements properly chargeable to the reserve for accrued depreciation.

2. Applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this sixth day of January, 1922.

DECISION No. 9971.

IN THE MATTER OF THE APPLICATION OF THE DE LUXE STAGE COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE THROUGH PASSENGER SERVICE BETWEEN SANTA CRUZ AND SAN FRANCISCO.

Application No. 7131.

Decided January 6, 1922.

AUTO STAGE—CERTIFICATE—EXPECTED TRAFFIC.—It is held that a showing of public necessity can not be predicated upon an applicant's belief of what he may develop in the way of additional traffic. The traffic expected to be secured had no existence at the time of filing of the application.

Ralph H. Smith, Ervin C. Easton, Henry C. W. Dinkelspiel, for Applicant.

H. C. Booth, E. Schillingsburg, J. C. Lyons, for Southern Pacific Company, Protestant.

J. E. McCurdy, for Auto Transit Company, Protestant.

H. A. Encehl, for C. M. Blabon and Hanchett and Lociero, Protestants.

BY THE COMMISSION.

OPINION.

In the above entitled application E. E. Starcher, doing business under the fictitious name and style of De Luxe Stage Company, has made application to the Railroad Commission in which he petitions for a certificate of public convenience and necessity authorizing the operation of an automobile stage line as a common carrier of passengers between

San Francisco and Santa Cruz. Applicant states in his petition that he proposes to operate only a through service.

Hearings were held before Examiner Satterwhite at Santa Cruz on September 22, 1921, and at San Francisco on October 13, October 31, and November 21, 1921, at which time the matter was submitted and is now ready for decision.

Applicant has been engaged for a number of years in the sightseeing and taxicab business in Santa Cruz and testified that the present application was filed primarily for the purpose of attracting tourist travel from San Francisco to Santa Cruz. To secure such tourist business he proposes to advertise this service as well as personally solicit the tourists at the various San Francisco hotels by describing the scenic beauties enjoyed by automobile trip through the Santa Clara Valley, the Santa Cruz Mountains and Big Trees at Felton. It is his belief that through such personal solicitation and advertising considerable tourist traffic could be developed between San Francisco and Santa Cruz, which would not only necessitate the operation of the service which he proposes, but would be of great value to the business community of Santa Cruz.

Applicant proposes to operate three round trips per day leaving San Francisco at 8 a.m., 2:30 p.m. and 7:30 p.m. and to use in such operation four 7-passenger National automobiles, charging a rate of \$3 for the one-way trip San Francisco to Santa Cruz.

Testifying in his own behalf, applicant stated that he had made no investigation as to the traffic needs at the present time between San Francisco and Santa Cruz, but that it was his belief that the present stage service rendered by the Auto Transit Company was inadequate and unsafe and did not tend to attract tourist travel. A number of other witnesses, residents of Santa Cruz, were also called by applicant, but none of whom, however, could state of their own knowledge whether the existing transportation facilities of the Auto Transit Company and Southern Pacific Company were inadequate, and testified that they believed any additional transportation facilities which would be secured would be a benefit to the city of Santa Cruz.

Applicant also introduced testimony as to the alleged unsatisfactory service rendered by the Auto Transit Company, an automobile passenger stage line at present operating between San Francisco and Santa Cruz and intermediate points. This testimony was directed mainly to the equipment operated by the Auto Transit Company to show that their equipment was antiquated and unsafe; that on various occasions the brakes on the cars had refused to work, also that the drivers of the Auto Transit Company were not experienced and that traffic officers along the route over which they operate had occasion not only to warn them with respect to reckless driving, but upon one occasion were obliged to

arrest one driver for violation of traffic ordinances. It was not shown, however, that any of these witnesses possessed sufficient experience in automobile mechanics or a sufficient personal knowledge of the equipment operated by the Auto Transit Company to establish the unsafe condition of such equipment.

The Auto Transit Company, a protestant in this proceeding, presented testimony through its chief mechanic to the effect that its equipment was not only in first-class condition when operated, but that it was continuously being overhauled and inspected and that with the exception of minor mechanical difficulties, which every operator of an automobile must experience, no serious breakdowns had ever occurred nor had its equipment at any time failed to pass all necessary tests, particularly as to the braking requirements of the Railroad Commission. Rule "5" of the operating rules and regulations established by this Commission provides that every vehicle shall be equipped with satisfactory brakes and such brakes shall at all times be maintained in good condition and with a braking power sufficient to lock the rear wheels of said vehicle when brakes are fully applied at a speed of ten miles per hour.

There was also considerable testimony submitted that the Auto Transit Company had on various occasions been obliged to refuse transportation to passengers desiring to leave Santa Cruz due to the fact that their available equipment was loaded to its capacity and that they were unable to accept additional passengers for transportation. Mr. George Seidelman, president of the Auto Transit Company, testifying in behalf of this protestant, stated that to maintain the present schedule of the Auto Transit Company it required the operation of two 11 or 14 passenger automobiles; that in addition thereto his company had two machines in reserve and could lease within a very short period three additional machines at any time when traffic conditions necessitated such action. It appears from the testimony that the traffic conditions to and from Santa Cruz are fluctuating; that there is at times heavy passenger traffic which severely taxes available equipment and particularly during the time of various conventions at Santa Cruz. An exhibit, however, submitted by protestant Auto Transit Company, showed the traffic movement upon its line between San Francisco and Santa Cruz for a period September 1 to October 25, 1921, as follows:

During the month of September 1 to 30, inclusive, this line operated 1932 passenger seats during which period it carried 992 passengers and 940 empty seats or approximately 51 per cent capacity. During the period October 1 to 25, inclusive, protestant operated 1576 seats, carried 1090 passengers and 486 empty seats or approximately 69.8 per cent of capacity.

A study of this exhibit as to traffic conditions between San Francisco and Santa Cruz further shows that during the period September 1 to October 25, inclusive, this line at no time operated to its full capacity, the least number of empty seats occurring upon October 8 when there were two empty seats and the highest number on September 10 when there were fifty empty seats. Attention might be called to this latter date in that it was a day following a legal holiday and when traffic conditions would be particularly heavy in view of the fact that Santa Cruz is patronized largely as a week-end and holiday resort. The average of empty seats carried by the Auto Transit Company for a 55-day period is in excess of 26 per day.

This exhibit would tend to show that the existing traffic conditions were not such as to overtax the stages of the Auto Transit Company, particularly when it is borne in mind that this company heretofore operated six round trips daily between San Francisco and Santa Cruz, but that due to falling off of traffic has been obliged to reduce its operating schedules to two round trips per day. In addition to which the Southern Pacific trains between San Francisco and Santa Cruz are far from overcrowded. The Southern Pacific Company is willing at all times, when conventions are held or upon other occasions when traffic conditions are heavy, to supply additional coaches or in fact extra trains if required.

A witness for Southern Pacific Company, also a protestant, testified that his company was obliged to take off one of their passenger trains between San Francisco and Santa Cruz due to the light traffic movement between such points and that such train was not earning operating costs. With reference to securing tourist travel the Southern Pacific Company showed that during the summer months it had expended in excess of \$4,437 in advertising Santa Cruz, the Big Trees and vicinity in addition to which it continuously maintained posters in its stations and ferry boats advertizing Santa Cruz and vicinity and that all passengers traveling from eastern points were entitled, should they so desire, to be routed via Santa Cruz with stopover privileges without extra charge.

The chairman of the board of supervisors of Santa Cruz County also testified to the existing traffic conditions, stating that it was the belief of each supervisor of Santa Cruz County that the ground was fully covered as regards soliciting tourists to visit Santa Cruz; that the existing rail and auto service was adequate to meet all needs, and that in addition thereto the board of supervisors of the county of Santa Cruz was against the establishment of additional stage lines for the reason that the new highway recently opened known as "Los Gatos Highway" was overcrowded at the present time and the establishment of additional stage lines over such highway would tend to endanger the lives of people

using private machines traveling to and from Santa Cruz. A check of machines over a four-day period had shown 45,000 automobiles over the new highway. The highway in question is only fifteen feet wide on straight road and from sixteen to sixteen and one-half feet wide on curves and, due to such fact, the establishment of an additional stage line over such road would be a detriment instead of a benefit to the city of Santa Cruz in that it would keep many privately operated machines away which would otherwise visit Santa Cruz over week-ends and holidays.

In addition to the through service at the present time by both the Auto Transit Company and the Southern Pacific Company, there is the additional service being rendered jointly by the Pacific Auto Stage Company, San Francisco to San Jose, and C. M. Blabon, San Jose to Santa Cruz. A review of the evidence in this proceeding shows that this existing service by rail and auto stage is fully adequate to meet all traffic demands between the two points named. The securing of additional tourist travel in itself would not warrant the establishment of an additional stage line, particularly in view of the fact that the Southern Pacific Company, through its agents and newspaper and poster advertising, goes a long way toward covering this field. The Auto Transit Company, in addition, through Peck-Judah Company, a ticket agency, also advertises points of interest in Santa Cruz and vicinity. An official of the latter named company testified that in connection with the tickets his company has sold for transportation over the Auto Transit Company, he has never heard of one complaint against their service nor has he ever been unable to secure a seat for passengers to whom his company has sold tickets.

A large part of the evidence introduced by applicant was directed against the adequacy and safety of operation of the Auto Transit Company. A careful consideration of this evidence fails to show that the service of Auto Transit Company is either inadequate or unsafe. It is suggested that if, at any time, an authorized carrier is believed either to be operating unsafe equipment or is giving inadequate service or is not meeting traffic conditions, complaints may be filed, either formally or informally, with this Commission and the Commission will immediately proceed to ascertain the truth of the matter complained of and will act in accordance therewith. No complaint of any character has been filed with this Commission as regards the service or safety of operation of the Auto Transit Company. In view of the fact that the Commission's inspectors have on various occasions gone over the equipment of the Auto Transit Company and did not find any cause for com-

plaint, together with a consideration of the evidence herein, we are of the opinion that the allegations of applicant as to unsafe equipment have not been established.

A showing of public necessity can not be predicated upon an applicant's belief of what he may develop in the way of additional traffic between two given points. The fact remains that the traffic expected to be secured had no existence at the time of filing of the application and if present transportation facilities are adequate there is no public necessity for the establishment of additional service designed to care for a movement which may or may not materialize in the future. It is unquestionably true that should additional tourists be prevailed upon to include Santa Cruz in their itinerary it would be of material benefit to that city and should the city of Santa Cruz itself, civic organizations or any of its individual citizens desire to spend all or a portion of their time in such work it would undoubtedly meet with considerable success, but until such traffic has been developed and it is shown that existing transportation facilities are inadequate to handle the same, we shall hold that no public necessity exists for the establishment of any additional service.

As applicant has failed to establish a public necessity for the service which he proposes, his application should be denied.

ORDER.

Hearings having been held, the above entitled proceeding having been submitted and the Commission being fully advised:

The Railroad Commission hereby declares that public convenience and necessity do not require the establishment of an automobile stage line as a common carrier of passengers between San Francisco and Santa Cruz; and

It is hereby ordered, that the above entitled application be and the same hereby is denied.

Dated at San Francisco, California, this sixth day of January, 1922.

DECISION No. 9972.

IN THE MATTER OF THE APPLICATION OF FRED WALKER, J. E. ANDERSON, H. M. THOMPSON, HARRY POWELL, OSCAR LEE AND BAY CITIES TRANSIT COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUANCE OF STOCK BY THE CORPORATION, BAY CITIES TRANSIT COMPANY, FOR ROLLING STOCK, EQUIPMENT AND ACCESSORIES.

Application No. 7415.

Decided January 6, 1922.

Robert E. Abbott, for Applicants.

BY THE COMMISSION.

OPINION.

In this application, as amended at the hearing, the Railroad Commission is asked to make an order authorizing the Bay Cities Transit Company to issue \$18,750 of capital stock in payment for automobile equipment, machinery, materials and supplies.

A hearing was had on this application before Examiner Williams at Los Angeles on December 30.

Bay Cities Transit Company was organized on or about August 25, 1921, with an authorized stock issue of \$50,000, divided into 50,000 shares of \$1 each. The Commission has heretofore authorized applicant to issue five shares of stock to qualify directors.

In its original application, applicant asked permission to issue \$19,750 of stock to the following parties:

Fred Walker	\$6,250 00
H. M. Thompson.....	6,250 00
J. E. Anderson	6,250 00
Harry Powell and Oscar Lee.....	1,000 00
Total.....	\$19,750 00

The record shows that the automobile which Harry Powell and Oscar Lee had intended to turn over to applicant in exchange for \$1,000 of stock has, since the filing of the application, been acquired by J. E. Anderson and that Harry Powell and Oscar Lee are no longer interested in this application. The automobile acquired by J. E. Anderson from Harry Powell and Oscar Lee will not be sold to the Bay Cities Transit Company and, therefore, the amount of stock which the company asks permission to issue was reduced from \$19,750 to \$18,750.

As said, applicant intends to issue \$6,250 of its stock to Fred Walker, \$6,250 to H. M. Thompson and \$6,250 to J. E. Anderson. This stock will be delivered to the persons mentioned in full payment for the following automobile equipment and accessories:

Fred Walker equipment:

One 1921 Reo automobile, 22 horsepower, 20 seating capacity-----	\$1,400 00
One 1920 Reo automobile, 22 horsepower, 20 seating capacity-----	1,400 00
One 1921 Reo automobile, 22 horsepower, 10 seating capacity-----	1,325 00
One 1921 Reo automobile, 22 horsepower, 10 seating capacity-----	1,325 00
One 1919 Dodge automobile, 24 horsepower, 10 seating capacity-----	800 00

Total----- \$6,250 00

H. M. Thompson equipment:

One 1920 Reo automobile, 22 horsepower, 20 seating capacity-----	\$1,400 00
Six 1919 Dodge automobiles, all 22 horsepower, 10 seating capacity, at \$800 each-----	4,800 00
Accessories-----	50 00

Total----- \$6,250 00

J. E. Anderson equipment:

Six Dodge automobiles, 24 horsepower, 10 seating capacity, at \$800 each-----	\$4,800 00
One 550-gallon gas tank and one 5-gallon pump-----	600 00
One air compressor-----	225 00
One Trimmer sewing machine-----	85 00
One auto body-----	250 00
One electric drill-----	175 00
Tools-----	115 00

Total----- \$6,250 00

It appears from the testimony that the parties to whom applicant will issue its stock intend to hold such stock as an investment and that they will remain in active charge of the management of applicant's business.

ORDER.

Bay Cities Transit Company having applied to the Railroad Commission for permission to issue \$18,750 of its capital stock for the purpose of acquiring automobile equipment and accessories, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant;

It is hereby ordered, that Bay Cities Transit Company be and it is hereby authorized to issue on or before March 1, 1922, \$18,750 of its capital stock for the purpose of acquiring the automobile equipment and accessories described in the foregoing opinion and in this application, said stock to be issued to Fred Walker, H. M. Thompson and J. E. Anderson in full payment for their automobile equipment and accessories described in this application;

Provided they deliver to said Bay Cities Transit Company said automobile equipment and accessories free and clear of all encumbrances; and

Provided, further, that Bay Cities Transit Company will keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or

before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

Dated at San Francisco, California, this sixth day of January, 1922.

DECISION No. 9975.

IN THE MATTER OF THE APPLICATION OF WHITTIER WATER COMPANY FOR AUTHORITY TO INCREASE RATES.

Application No. 4815.

Decided January 9, 1922.

WATER UTILITY—CONTRACT RATES—JURISDICTION—FAIR RATES.—It is held that rates fixed by contracts or deeds over which the Commission has no jurisdiction are not subject to change and the rates established by the Commission apply only to water delivered to public utility consumers. Rates established are such as would be fair if every consumer were a public user.

James S. Bennett, for Whittier Water Company.

Fredrick W. Smith and *D. L. DiVecchio*, for *J. O'Sullivan* and *C. H. Benton*.

Frank S. Swain, for *E. O. Dickinson* and *Anna Warne*; also for *Jesse M. Robertson*, water user in *Luitweiler Tract*.

Haas and Dunnigan, by *Walter F. Haas*, and *Bradner W. Lee*, *Kenyon F. Lee* and *Bradner W. Lee, Jr.*, by *Kenyon F. Lee*, for deeded water right owners.

A. Moore, for himself and *Alice E. Moore* as owners of Lots 72 and 74 in the *Orcharddale Tract*; also for *G. C. Ivey*.

BENEDICT, *Commissioner*.

OPINION.

Whittier Water Company, applicant herein, engaged in the business of delivering water for domestic and irrigation use in the vicinity of the city of Whittier, Los Angeles County, asks permission to increase rates alleging in effect that its present revenues are inadequate.

This application was filed August 2, 1919, and subsequently a large number of protests were received, raising the question of this Commission's jurisdiction as to certain phases of the Whittier Water Company's operations. After protracted argument, hearings and briefs the matter was submitted on the preliminary question of jurisdiction, and the Commission by its order on June 28, 1921 (Decision No. 9171), dismissed the proceeding as to certain protestants, in so far as it referred to the service of water by the applicant to such protestants pursuant to the terms of the contracts or deeds referred to in the protests.

The matter then came up for further hearing on the sixteenth of September, 1921, at Los Angeles before Commissioner Benedict, and

further evidence was submitted at that time by the applicant and by the Commission bearing directly upon the question of rates. At the conclusion of this hearing it was stipulated by all parties concerned that the matter might be deemed submitted, upon the evidence which had been presented, for the purpose of fixing a temporary rate pending a final decision.

Subsequently, on October 28, 1921, by Decision No. 9675, the Commission made its order fixing temporary rates for public utility service by Whittier Water Company upon the ground that the evidence which had been introduced indicated clearly that the rates charged by the utility were unreasonably low and that an increase was justified. The temporary rates fixed by this decision were as follows:

Meter Rates—Domestic.

	Per month
First 600 cubic feet or less.....	\$1 00
Next 1400 cubic feet, per 100 cubic feet.....	12
All over 2000 cubic feet, per 100 cubic feet.....	07

Irrigation Rates.

Per miner's inch hour.....	\$0 04
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A further hearing was held on December 6, 1921, at Los Angeles, at which the protestants submitted evidence as to the value of the plant and the reasonable annual maintenance and operating expense. A comparison of the various figures submitted as to the cost of the water system is as follows:

Whittier Water Company.....	\$579,753 00
Willis S. Jones, for the protestants.....	424,030 00
M. E. Ready, one of the Commission's hydraulic engineers.....	500,983 00

Mr. Jones, in making his estimate, accepted in the main the figures of original cost submitted by the utility. The principal exception to this was in the amount allowed for lands devoted to water operations, in that he used only a portion of the amounts claimed by the company, and then deducted from this figure the total sums received by the company for sales of water rights and other property. It is evident that this method has resulted in certain duplicated deductions, and after a careful consideration of all the evidence submitted I believe the sum of \$560,000 is a fair and reasonable rate base for this proceeding.

Mr. Ready estimated the future reasonable maintenance and operating expense, exclusive of depreciation, at \$59,533 per year. Mr. Jones estimated this expense at \$55,415. The applicant did not submit any estimate, but produced evidence to show that certain items such as pumping labor and fuel costs in the foregoing estimates were too low. I believe that \$59,500 is a reasonable allowance for maintenance and

operating expense, and that an additional allowance of \$7,933 should be made for depreciation annuity.

The annual charges based upon the foregoing items, are then as follows:

Return at 8 per cent on \$500,000-----	\$44,800 00
Depreciation annuity -----	7,933 00
Maintenance and operating expense-----	59,500 00
Total-----	<u>\$112,233 00</u>

As many of the consumers under this system are supplied with water at rates fixed by certain contracts or deeds over which this Commission has no jurisdiction, it is apparent that the rates established in the accompanying order can be applied only to such water as is delivered to public utility consumers.

It is evident that to compel the public utility consumers to pay rates sufficiently high to make up deficiencies in revenue caused by the low contract rates would result in prohibitive charges, and the rates fixed should be so designed as to assess to these public service consumers costs which are in proper proportion to the annual charges. Obviously the most reasonable and simple method of achieving this result will be to establish what would be a fair rate if every consumer were a public user.

It is estimated that the utility would receive a return approximately equal to the total annual charges set out above if the temporary rates fixed in Decision No. 9675 could be applied to all consumers under the system, and I recommend that these temporary rates be hereafter charged for water delivered to public utility consumers.

At the hearings in this matter the proposal of establishing one rate for water supplied to consumers below the main ditch and another rate for service to those above the main ditch was gone into very thoroughly. The argument in favor of two different rates was based on the fact that water supplied to the latter class of consumers is pumped twice. The evidence shows, however, that the pumping operations conducted by the utility are so variable and complicated that an attempt to fix different rates, based upon the actual costs or even the approximate actual costs of the service rendered, would result in endless complications. It therefore appears that the only practical solution of the matter will be to establish a single rate based as nearly as possible upon the average cost of producing the supply.

At the hearings in this proceeding there was also considered the matter of the investigation on the Commission's own motion into the rules, practices, facilities and service of the Whittier Water Company, California Domestic Water Company and La Habra Water Company

(Case No. 1658), and also the complaint of Edmund O. Dickinson and Anna Warne against Whittier Water Company (Case No. 1659). It appears, however, that the questions raised in these two proceedings can not be settled by the Commission at this time, for the reason that many of the matters involved are before the Superior Court of the State, and the Commission's decision should therefore be held in abeyance until the civil court proceedings are completed.

I recommend the following form of order:

ORDER.

Whittier Water Company having made application for permission to increase rates, public hearings having been held thereon and the matter having been submitted:

It is hereby found as a fact that the temporary rates established by this Commission in its Decision No. 9675, dated October 28, 1921, as set forth in the schedule hereinafter prescribed, are just and reasonable rates to be charged by Whittier Water Company for water supplied to its public utility consumers.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the opinion preceding this order;

It is hereby ordered, that the Whittier Water Company, on or before the effective date of this order, cause to be filed with this Commission its rates and thereafter charge for public utility service of water in accordance with the following schedule:

Meter Rates—Domestic.

	Per month
First 600 cubic feet or less.....	\$1 00
Next 1400 cubic feet, per 100 cubic feet.....	12
All over 2000 cubic feet, per 100 cubic feet.....	07

Irrigation Rates.

Per miner's inch hour (72 cubic feet).....	\$0 04
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It is hereby further ordered, that Whittier Water Company be and the same is hereby directed to file with this Commission within thirty (30) days of the date of this order rules and regulations governing its relations with consumers, such rules and regulations to become effective upon their acceptance by the Commission;

It is hereby further ordered, that the portion of the order in this Commission's Decision No. 9675 reading as follows: "That said company shall impound and hold intact in a separate fund all moneys collected hereunder in excess of the rates heretofore authorized," be and the same is hereby vacated.

The effective date of this order is hereby fixed and designated as the first day of February, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this ninth day of January, 1922.

DECISION No. 9976.

IN THE MATTER OF THE APPLICATION OF BEAR GULCH WATER COMPANY, A CORPORATION, FOR ORDER AUTHORIZING THE ISSUE OF BONDS.

Application No. 7425.

Decided January 9, 1922.

J. M. Mannon, Jr., for Applicant.

BENEDICT, Commissioner.

OPINION.

Bear Gulch Water Company asks permission to issue and sell \$45,000 of its first mortgage 5 per cent bonds due January 15, 1930, and to use the proceeds to pay outstanding indebtedness and to reimburse itself for capital expenditures made during the years 1917 to 1920, inclusive.

Bear Gulch Water Company was organized on or about October 8, 1889, and is at present engaged in distributing water for domestic purposes in and about Menlo Park and Woodside, San Mateo County, reporting approximately 600 consumers. The application shows that on December 24, 1921, there was issued and outstanding all (\$500,000) of applicant's authorized capital stock, and \$205,000 of its authorized issue of \$250,000 of first mortgage bonds. In addition, there are outstanding \$40,000 of 7 per cent promissory notes.

The company reports that during the years 1917, 1918, 1919 and 1920, it expended for extensions, additions and betterments the sum of \$60,374.65. From this amount applicant deducts \$7,477.96 which was obtained from the sale of old equipment, leaving \$52,896.69 of uncapitalized expenditures. These expenditures, which are described in some detail in the petition, are reported to have been necessary to maintain good and efficient service and to take care of increasing business.

The testimony of Ralph P. Merritt, applicant's general manager, shows that \$20,000 of the \$52,896.69 was obtained by the issue of two

7 per cent 1-day notes in the principal amount of \$10,000 each, one dated March 17, 1920, and one dated May 20, 1920, and the balance by the appropriation of surplus earnings and reserve for accrued depreciation. Of the proceeds from the sale of the bonds, the company intends to use \$20,000 to pay the two \$10,000 notes, \$12,585.31 to reimburse its reserve for accrued depreciation, \$709.99 to reimburse operating accounts and the balance to reimburse itself for surplus earnings invested in properties.

Applicant asks permission to sell the bonds at not less than 87.9 per cent of their face value and accrued interest.

I herewith submit the following form of order:

ORDER.

Bear Gulch Water Company having applied to the Railroad Commission for permission to issue and sell \$45,000 of bonds, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant for the purpose or purposes specified herein, and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Bear Gulch Water Company be and it is hereby authorized to issue and sell, on or before May 1, 1922, at not less than 87.9 per cent of their face value and accrued interest, \$45,000 of its first mortgage 5 per cent bonds due January 15, 1930.

The authority herein granted is subject to further conditions as follows:

1. The proceeds from the sale of the bonds shall be used by applicant to pay the two \$10,000 notes referred to in the preceding opinion and to reimburse its treasury, in part, for moneys expended for the extensions, additions and betterments described in this application. The moneys used to reimburse applicant's treasury shall after such reimbursement be expended for financing the cost of extensions, additions and betterments properly chargeable to capital account, or for such other purposes as the Railroad Commission may authorize by supplemental order.

2. Applicant shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

3. The authority herein granted will not become effective until applicant has paid the fee prescribed by the Public Utilities Act, which fee is \$45.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this ninth day of January, 1922.

DECISION No. 9977.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES GAS AND ELECTRIC CORPORATION FOR AN ORDER AUTHORIZING THE ISSUANCE AND SALE OF ITS PREFERRED CAPITAL STOCK, IN THE AMOUNT OF TWO MILLION DOLLARS, PAR VALUE.

Application No. 7445.

Decided January 9, 1922.

Paul Overton, for Applicant.

BENEDICT, Commissioner.

OPINION.

In the above entitled application Los Angeles Gas and Electric Corporation asks permission to issue and sell at not less than \$85 per share 20,000 shares (\$2,000,000) of its 6 per cent cumulative preferred stock and to use the proceeds to pay in part the cost of additions and extensions to its plants, properties and equipment set forth in Exhibit "B" filed in this proceeding.

Los Angeles Gas and Electric Corporation has an authorized stock issue of \$30,000,000 divided into \$10,000,000 of 6 per cent cumulative preferred and \$20,000,000 of common. As of December 1, 1921, applicant reports \$1,038,400 of its preferred and \$10,000,000 of its common, making a total of \$11,038,400 of stock outstanding. The outstanding preferred stock has been issued under the authority granted by the Commission in Decision No. 8516, dated January 5, 1921, and Decision No. 8694, dated March 3, 1921. In the former decision, the Commission authorized applicant to issue and sell \$1,000,000 of its 6 per cent cumulative preferred stock, and in the latter decision, \$2,000,000 of such stock. The testimony in this proceeding shows that as of January 6, 1922, applicant had sold \$2,751,700 of the \$3,000,000 of stock.

In Exhibit "B," attached to the petition in this proceeding, applicant reports that it will be called upon to expend \$7,835,410 during 1922 for additions and extensions to its plants, properties and equipment. The estimated expenditures are summarized as follows:

Gas works -----	\$2,966,000 00
Electric works -----	1,465,050 00
Gas distributing system -----	2,387,010 00
Electric distributing system -----	570,560 00
Miscellaneous -----	446,790 00
Total -----	<u>\$7,835,410 00</u>

Some of the reported expenditures have, according to the testimony of C. A. Luckenbach, applicant's third vice president, not been finally and definitely approved by applicant's officers. He is of the opinion, however, that applicant's construction expenditures during 1922 will exceed \$7,835,410. He testified that applicant's contracted liabilities were in excess of the \$2,000,000 of stock applied for in this application.

Applicant asks permission to sell the stock at not less than \$85 per share. It asks authority to expend not exceeding \$3 per share for payment of commissions and expenses incidental to the sale of the stock and use the remainder to pay in part the cost of the additions and extensions to its plants, properties and equipment list in Exhibit "B".

I herewith submit the following form of order:

ORDER.

Los Angeles Gas and Electric Corporation having applied to the Railroad Commission for permission to issue \$2,000,000 of its 6 per cent cumulative preferred stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in this order and that the expenditures are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Los Angeles Gas and Electric Corporation be and it is hereby authorized to issue 20,000 shares (\$2,000,000 par value) of its 6 per cent cumulative preferred stock.

The authority herein granted is subject to the following conditions:

1. The stock herein authorized to be issued shall be sold by applicant, for cash, at not less than \$85 per share. Of the proceeds, applicant may use an amount not exceeding the equivalent of three dollars per share to pay commission and expenses incidental to the sale of the stock. The remainder of the proceeds shall be used by applicant to pay in part for the additions and extensions to its plants, properties and equipment set forth in Exhibit "B" filed in this proceeding.

2. Los Angeles Gas and Electric Corporation shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Com-

mission's General Order No. 24, which order in so far as applicable is made a part of this order.

3. The authority herein granted will apply only to such stock as may be issued, sold and delivered on or before December 31, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this ninth day of January, 1922.

DECISION No. 9986.

IN THE MATTER OF THE APPLICATION OF EXCELSIOR WATER AND MINING COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING AND PERMITTING AN INCREASE IN THE RATES AND CHARGES FOR WATER FURNISHED AND SERVICES RENDERED BY IT IN THE COUNTIES OF NEVADA AND YUBA, STATE OF CALIFORNIA.

Application No. 6427.

Decided January 12, 1922.

WATER UTILITY—ANNUAL CHARGES—ABILITY TO PAY—DECREASE IN USE.—It is held in this case that an increase in rates sufficient to produce the annual charges would result not only in a rate beyond the ability of the consumer to pay but also in such a decrease in water use that revenues would probably diminish rather than increase.

C. P. Metteer, for Applicant.

Robert M. Searls and Carroll Searls, for Yuba-Nevada Water Users Association.

BY THE COMMISSION.

OPINION.

Applicant, Excelsior Water and Mining Company, engaged in the business of selling water for irrigation purposes in Nevada and Yuba counties, asks authority to increase the rates for water furnished its consumers, alleging in effect that the present rates are noncompensatory. It is further asked that the order of the Commission specify the time of payment of rates and provide that all payments becoming delinquent shall bear interest from maturity at a reasonable rate.

The Yuba-Nevada Water Users Association filed a protest against the granting of the application, alleging that the system is overbuilt; that there has been a decrease in the value of farm products and that an increase in rates would place a burden on the consumers that would not be justified; and further, that an increase in charges at this time would result in a decreased use of water, thereby reducing applicant's revenues and curtailing the agricultural industry of the area served.

A public hearing was held before Examiner Satterwhite at Nevada City, of which all of applicant's consumers were notified and given an opportunity to appear and be heard.

For the early history of the company and a description of the system reference is made to Decision No. 1361, dated March 19, 1914, in Application No. 934, entitled: *In the matter of the Application of Excelsior Water and Mining Company for an order authorizing and permitting a change in the rates and charges for water furnished and services rendered by it in the counties of Nevada and Yuba, State of California*, page 438, Volume 4, Opinions and Orders of the Railroad Commission of California.

The rates in effect were established by this Commission in Decision No. 7022, dated January 9, 1920, in Application No. 4423, entitled: *In the matter of the application of Excelsior Water and Mining Company, a corporation, for an order authorizing and permitting an increase in the rates and charges for water furnished and services rendered by it in the counties of Nevada, Yuba and Placer, State of California*, page 664, Volume 17, Opinions and Orders of the Railroad Commission of California. These rates are as follows:

Irrigation.

For all water delivered at the ditch or ditches of the company, 15 cents per miner's inch per day of 24 hours, or the equivalent thereof in amount, 1 miner's inch per minute being equal to 1½ cubic feet.

Power.

Five cents (5c) per miner's inch per 24-hour day for approximately 200 miner's inches used from the so-called Rough and Ready Ditch.....\$10 00

Two and one-half cents (2½c) per miner's inch per 24-hour day for approximately 110 miner's inches used from the so-called Newton Ditch..... 2 75

Total per twenty-four (24) hours for approximately 310 miner's inches...\$12 75

At the hearing applicant asked that the application be amended to show the change of name of the company allowed by the Superior Court since the filing of this application, the name of the company now being Excelsior Water and Power Company instead of Excelsior Water and Mining Company. There being no objections the request was granted.

This system was originally constructed for supplying water for hydraulic mining in the Smartville district. Since the cessation of mining, efforts have been made to convert the system into an irrigation property, with varying success. The average acreage irrigated for the past three years is about 2,000 acres and consists of garden, alfalfa, orchard and rice. A small amount of water is used for domestic purposes and some for power development in mining. All water used for power purposes is recovered and again sold, and for this reason a

lower rate has been granted for such use. This system has not yet realized its full irrigation possibilities, and may still be considered as in its development stage.

Water is obtained by diversion from the South Fork of the Yuba River and from Deer Creek and its tributaries. Applicant has a right to 2,000 miner's inches on the South Fork, while the quantity which may be diverted from Deer Creek is in litigation. The water is distributed through about 123 miles of ditches, varying from 2 to 45 cubic foot second capacity. There is no storage developed as yet, the supply being dependent upon the natural flow of the streams.

Mr. William Stava, one of the Commission's hydraulic engineers, submitted a report of an investigation of the system. This report shows that the estimated investment, as found in the Commission's Decision No. 1361, in 1914, was \$512,721, and that \$316,785 was held by the Commission to be a proper portion of the investment chargeable against the consumers. The additions and betterments since that date amount to \$55,674, but as the details of the former appraisal were not available, it was impossible to make proper credits for retirements of some of the replaced structures.

Mr. Chester H. Loveland, engineer for the applicant, also submitted a report of an investigation of the system which in the main substantiated the figures presented by Mr. Stava.

Based upon the Commission's findings in Decision No. 1361 and subsequent net additions to capital it would appear that at least \$350,000 is at this time properly chargeable against consumers.

Maintenance and operating expense, not including depreciation, were shown as follows:

Year 1919.....	\$23,442 00
Year 1920.....	27,970 00
Estimate for 1921.....	26,232 00
Average.....	25,881 00

Exception was taken by Mr. Stava and by Mr. W. L. Huber, engineer for the consumers, to the charges for overhead and legal expense on the ground that they are higher than corresponding costs on similar systems. It was recommended that items such as damages and Railroad Commission expense be amortized over a period of years inasmuch as they are not annually recurring costs. Apparently an allowance for maintenance and operating expense of \$24,000 for the immediate future will be fair alike to the utility and the consumers.

Mr. Loveland contended that the depreciation annuity, computed in the earlier proceeding and amounting to \$3,691, is not sufficient at this time, as the actual annual cost of replacements has exceeded this amount

since 1914, having averaged \$7,953 per year, and that no annuity has been computed for new structures installed since 1914. It was also claimed that the quality of lumber now being produced does not have the same service life in the structures as the lumber used in the early days. It is apparent that there should be some adjustment in the depreciation annuity due to the comparatively short-lived structures installed since 1914, and also to compensate for the installation of some permanent canal structures. It is believed that an allowance of \$4,200 will be ample for this purpose.

Annual charges based upon the foregoing items are then as follows:

Return upon \$350,000 at 8 per cent.....	\$28,000 00
Depreciation annuity.....	4,200 00
Maintenance and operating expense.....	24,000 00
Total.....	\$56,200 00

Revenues for the sale of water have been as follows:

Year 1919.....	\$22,989 00
Year 1920.....	29,226 00
Estimated for 1921.....	25,075 00

The decrease in revenue for 1921 is accounted for principally by the discontinuance of operation of the Champion mine, and represents a loss in revenue of about \$5,000 per year. There appears to have been no increase in the acreage irrigated during the last few years when farm products commanded a high price, but on the contrary the use of water was shown to have decreased.

The sales of water for irrigation in 1919 amounted to 175,517 miner's inch days; 168,685 in 1920; and it was estimated that the use in 1921 will be 152,884 miner's inch days. The area irrigated in 1920 was 2061 acres, and 1929 acres in 1921.

The evidence shows that the applicant has in the past voluntarily reduced its rates to encourage agricultural development, but that this reduction did not result in any extensive increase in acreage or the planting of orchards and vineyards which can take a higher rate and increase the duty of water. On the contrary, the low rates encouraged the irrigation of pasture for dairying, for which the foothill region is not suitable as it requires a large quantity of water per acre, and, according to the testimony, can not stand an adequate rate.

The consumers testified to the effect that they could not pay a higher rate for water for the reason that the price of dairy products was falling; that it was impracticable to set out orchards on account of the remoteness of this particular area from a market, and the necessity of hauling their produce over poor roads to a shipping point; also that there is an insufficient supply of water in Deer Creek for any

extensive development of orchards in the area served therefrom. Further testimony indicated that an irrigation district was being organized which will include the lands now supplied by applicant, and that a highway is being projected through the district.

It is apparent that the present rates do not produce sufficient revenue to cover maintenance and operating expense, and the evidence shows that the average rate charged by other utilities operating under similar conditions is approximately 25 cents per miner's inch day, or about 65 per cent higher than the present rate in force upon applicant's water system. It is therefore evident that an increase in rates is justified. It is further apparent, however, that an increase sufficient to produce the annual charges set out above would not only result in a rate beyond the ability of the consumer to pay but also in such a decrease in water use that revenues would probably diminish rather than increase. The rates set out in the accompanying order are therefore designed to do substantial justice to both the consumer and the utility, and it is estimated that they will produce sufficient revenue to cover maintenance and operating expense, depreciation annuity and some return upon the investment.

The consumers presented in evidence a contract dated June 27, 1921, between The Interstate Land Holding Company and the Excelsior Water and Mining Company which provides for the delivery by applicant of 1600 miner's inches continuous flow of water to the lands of the Interstate Company. This quantity of water could not be furnished from applicant's present supply or delivered through the existing canals, but would require the installation of storage facilities and the enlargement of the canals at a considerable additional investment. No data were presented to show the cost of providing for the delivery of this water. This contract, however, has never received the approval of this Commission.

Applicant's request for the setting of a time for the payment of rates will be provided for in the accompanying order, by means of an initial payment being required of a consumer at the time application for service is made. This procedure will provide applicant with funds for the repair and operation of the system during the early part of the irrigation season.

Penalties for delinquent payments have been allowed in some instances by this Commission, and it is apparent that some method is required on this system whereby the prompt payment of bills can be provided for. This feature can, however, be best handled through proper rules and regulations.

ORDER.

Excelsior Water and Power Company, formerly Excelsior Water and Mining Company, having made application for permission to increase rates, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that the rates now charged by Excelsior Water and Power Company for water delivered to consumers in Nevada and Yuba counties are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that Excelsior Water and Power Company be and the same is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order the following schedule of rates, effective for all water delivered to its consumers subsequent to January 31, 1922:

Irrigation use.

For all water delivered at the ditch or ditches of the company, 25 cents per miner's inch per day of 24 hours, or the equivalent thereof in amount. (1 miner's inch per minute equals $1\frac{1}{2}$ cubic feet.)

Fifteen dollars per inch to accompany application for water, the balance to be due and payable on September 1, in the year of service.

Mining or power use.

For all water delivered at the ditch or ditches of the company, 5 cents per miner's inch per day of 24 hours, or the equivalent thereof in amount.

Three dollars per inch to accompany application for water, the balance to be due and payable on September 1, in the year of service.

Other use.

All other water use to be paid for at the rates at present in effect.

It is hereby further ordered, that Excelsior Water and Power Company file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern relations with consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this twelfth day of January, 1922.

DECISION No. 9988.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF ONE MILLION FIVE HUNDRED THOUSAND DOLLARS, PAR VALUE, OF ITS FIRST AND REFUNDING SIX PER CENT BONDS AND THREE HUNDRED THIRTY-ONE THOUSAND ONE HUNDRED DOLLARS, PAR VALUE, OF ITS PREFERRED STOCK OR COMMON STOCK.

Application No. 7439.

Decided January 12, 1922.

Chickering and Gregory; Cummins, Roemer and Flynn; Sweet, Stearns and Forward, by Allen L. Chickering, for Applicant.

BENEDICT, Commissioner.

OPINION.

In this application, as amended at the hearing, San Diego Consolidated Gas and Electric Company asks permission to issue and sell \$1,500,000 of its first and refunding mortgage six per cent bonds due March 1, 1939, and \$331,100 of its seven per cent preferred stock, or common stock, or such portions of either as it may elect to issue in the aggregate amount of \$331,100.

Applicant reports that on October 31, 1921, it had outstanding \$3,010,800 of common stock and \$2,374,000 of seven per cent cumulative preferred stock. Its bonded debt as of the same date is reported to consist of \$5,130,000 of first mortgage five per cent bonds due March 1, 1939, and \$2,750,000 of first and refunding mortgage six per cent bonds due March 1, 1939. In addition, there are outstanding \$550,000 of five year collateral trust six per cent notes due July 1, 1923, secured by pledge of \$688,000 of the first mortgage bonds, and \$218,667.10 of miscellaneous accounts payable.

The company proposes to use the proceeds from the sale of the bonds and stock herein applied for to finance, in part, construction expenditures up to December 31, 1922. In exhibits attached to the petition, applicant reports that it will need \$252,621.07 to complete its 1921 construction program and \$2,073,004.87 to finance capital expenditures in 1922.

In Exhibit "5" applicant submits an estimate of the cost of its construction work during the current year. A summary of this statement shows, in round numbers, the following:

A—Gas department:		
Production capital	\$47,500 00	
Transmission capital	115,300 00	
Distribution capital	165,550 00	
Total gas department		\$328,410 00

B—Electric department :	
Production capital	\$1,038,500 00
Transmission capital	86,000 00
Distribution capital	546,500 00
Total electric department	\$1,671,000 00
C—General capital	48,500 00
D—Steam mains, services, meters	25,000 00
Total all departments	\$2,073,000 00

These estimated expenditures include \$1,000,000 to be expended for a steam turbine and two new boilers to equip the power house purchased from San Diego Electric Railway Company under the authority granted in Decision No. 8445, dated December 18, 1920; \$160,000 for substation equipment for its new Station "C," and \$85,000 for an 11-kilovolt transmission line to El Cajon. The testimony shows that the installation of the steam turbine and boilers will relieve applicant from the necessity of purchasing power from other electric utilities. It is reported that the expenditures shown in Exhibit "5" are made necessary not only to meet increasing demands from new consumers, but also to improve and maintain its existing service.

H. H. Jones, applicant's president, testified that in his opinion the company would be able to sell its bonds at not less than 93, and stock, both common and preferred, at not less than par. He stated that in connection with the sale of its stock an expenditure of not exceeding five per cent would probably be required for brokerage fees, advertising and similar expenses.

I herewith submit the following form of order:

ORDER.

San Diego Consolidated Gas and Electric Company having applied to the Railroad Commission for permission to issue stock and bonds, a public hearing having been held and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified herein, and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that San Diego Consolidated Gas and Electric Company be and it is hereby authorized to issue and sell, on or before December 31, 1922, \$1,500,000 of its first and refunding mortgage six per cent bonds, and either \$331,100 of its seven per cent preferred stock, or \$331,100 of its common stock, or such portions of either as it may elect to issue in the aggregate amount of \$331,100.

The authority herein granted is subject to the following conditions:

1. The bonds herein authorized to be issued shall be sold for cash at not less than 93 per cent of face value plus accrued interest.

2. The stock herein authorized to be issued shall be sold for cash at not less than par.

3. Of the proceeds from the sale of stock, applicant may use not exceeding five per cent to pay brokerage or commissions, advertising and other expenses of sale.

4. The remaining proceeds from the sale of the stock and the proceeds from the sale of the bonds herein authorized shall be used to finance, in part, the cost of the extensions, additions and betterments described in Exhibit "5" and in this application, provided such cost is properly chargeable to capital account under the uniform system of accounts prescribed or adopted by the Railroad Commission.

5. Applicant shall file with the Railroad Commission during 1922, a complete copy of its monthly reports prepared for the use of its officers and employees, such reports to be filed as soon as available for distribution to such officers and employees.

6. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$1,250.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twelfth day of January, 1922.

DECISION No. 9989.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION TO ISSUE AND SELL FIFTY THOUSAND SHARES OF ITS SEVEN PER CENT CUMULATIVE PRIOR PREFERRED STOCK.

Application No. 7465.

Decided January 12, 1922.

Murray Bourne, for Applicant.

BY THE COMMISSION.

OPINION.

San Joaquin Light and Power Corporation asks permission to issue and sell 50,000 shares (\$5,000,000 par value) of its 7 per cent cumulative prior preferred stock and use the proceeds to reimburse its treasury on account of income expended for capital purposes, to pay indebtedness and the cost of extensions, additions and betterments

to its plants and properties and provide itself with additional working capital. The Commission is also asked to approve an agreement between Cyrus Peirce and Company and applicant covering the sale of the stock.

A hearing was had on this application before Examiner Gordon at San Francisco on January 11.

Applicant has an authorized stock issue of \$150,000,000 divided into \$75,000,000 of 7 per cent prior preferred, \$25,000,000 of 6 per cent preferred and \$50,000,000 of common. As of November 30, 1921, applicant reports \$19,396,000 of stock outstanding. The outstanding stock consists of \$1,896,000 of 7 per cent prior preferred, \$6,500,000 of 6 per cent preferred and \$11,000,000 of common.

In Exhibit "C" applicant reports \$6,509,041.95 of actual or estimated construction expenditures and liabilities which it believes must be financed on or before December 31, 1922. The \$6,509,041.95 is in general composed of the following items:

Unifying and refunding 7 per cent bonds due March 1, 1922-----	\$400,000 00
Construction expenditures to November 30, 1921, which have not been financed through the issue of stock or bonds-----	1,539,101 18
Amount necessary to complete estimates reported in November statement-----	608,240 77
Estimated cost of electric capital to be installed during 1922 and not included in November statement:	
(a)—Production capital-----	\$144,700 00
(b)—Transmission capital-----	482,800 00
(c)—Distribution capital-----	2,393,700 00
(d)—General -----	940,500 00
	<hr/>
	3,961,700 00
	<hr/>
	\$6,509,041 95

In its original petition applicant asked permission to use part of the proceeds to finance the foregoing construction expenditures and pay the \$400,000 of bonds due March 1, 1922. At the hearing applicant amended its petition and now asks permission to use \$1,000,000 of the proceeds obtained from the sale of its stock to reimburse its treasury on account of the increased investment in current assets. As of November 30, 1921, applicant reported current assets amounting to \$3,250,521.74 as compared with \$1,454,372.13 on December 31, 1916, the increase being \$1,796,149.61. It has not been possible since the hearing to analyze applicant's financial statements to determine whether applicant has need for \$1,000,000 of additional working capital. The granting of that portion of the application will therefore be held in abeyance temporarily. The order herein will permit applicant to use the proceeds from the sale of \$400,000 of stock to pay the \$400,000 of bonds due March 1, 1922, and the proceeds from \$1,539,101.18 of stock

to finance the cost of the additions and betterments installed on or before November 30, 1921, referred to in this application. The proceeds from the remainder of the stock may be expended only for such purposes as the Railroad Commission may authorize.

The Commission, as said, is asked to approve an agreement between applicant and Cyrus Peirce and Company covering the sale of \$5,000,000 of stock and an option on additional stock. Under the agreement, Cyrus Peirce and Company agrees to purchase \$1,000,000 of stock during the month of January, 1922, at \$92 per share; \$1,000,000 during the month of February and \$1,000,000 during the month of March at the same price. The company also grants to Cyrus Peirce and Company an option to purchase \$1,000,000 of additional stock at \$93 per share and \$1,000,000 of stock at \$94 per share. If the company concludes to sell any additional stock during 1922, Cyrus Peirce and Company is given an option to purchase such stock at a minimum price of \$95 per share. The company in this application does not ask permission to issue more than \$5,000,000 of its 7 per cent cumulative prior preferred stock and the authority herein granted will be confined to \$5,000,000. If applicant concludes to issue any additional stock during the current year pursuant to the agreement with Cyrus Peirce and Company, it will be required to file a new application covering the issue of such stock. At that time, the Commission will determine the price at which such stock may be sold by applicant. The testimony shows that the agreement between applicant and Cyrus Peirce and Company does not impose upon applicant any implied or express obligations other than those set forth in the agreement.

The order herein will authorize applicant to issue \$5,000,000 of stock subject to the terms and conditions of such order. There appears to be no necessity for the Commission to approve the agreement between applicant and Cyrus Peirce and Company.

ORDER.

San Joaquin Light and Power Corporation having applied to the Railroad Commission for permission to issue and sell 50,000 shares of its 7 per cent cumulative prior preferred stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant:

It is hereby ordered, that San Joaquin Light and Power Corporation be and it is hereby authorized to issue 50,000 shares (\$5,000,000 par value) of its 7 per cent cumulative prior preferred stock.

The authority herein granted is subject to the following conditions:

1. Of the stock herein authorized to be issued 30,000 shares shall be sold by applicant for not less than \$92 per share; 10,000 shares for not less than \$93 per share; and 10,000 shares for not less than \$94 per share.

2. Applicant may use the proceeds from the sale of \$1,539,101.18 of stock to finance its expenditures on capital account made on or before November 30, 1921, referred to in this application, and through such financing pay current indebtedness or reimburse its treasury. It may use the proceeds from the sale of \$400,000 of stock to pay \$400,000 of 7 per cent unifying and refunding bonds due March 1, 1922. The remainder of the proceeds shall be deposited with a bank or banks, and may be expended only for such purposes as the Railroad Commission may hereafter authorize.

3. San Joaquin Light and Power Corporation shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

4. The authority herein granted will apply only to such stock as may be issued, sold and delivered on or before November 1, 1922.

Dated at San Francisco, California, this twelfth day of January, 1922.

DECISION No. 9991.

IN THE MATTER OF THE APPLICATION OF F. W. GOMPH, AGENT, IN THE NAME AND ON BEHALF OF THE FOLLOWING CARRIERS: E. V. RIDEOUT COMPANY; HOLTON INTERURBAN RAILWAY; CHOWCHILLA PACIFIC RAILWAY; McCLOUD RIVER RAILROAD; NEVADA COUNTY NARROW GAUGE RAILROAD COMPANY; PACIFIC COAST RAILWAY COMPANY; PACIFIC ELECTRIC RAILWAY COMPANY; PACIFIC STEAMSHIP COMPANY; PETALUMA AND SANTA ROSA RAILROAD COMPANY; SACRAMENTO NORTHERN RAILROAD; SAN FRANCISCO-SACRAMENTO RAILROAD; SANTA MARIA VALLEY RAILROAD; TIDEWATER SOUTHERN RAILWAY; TONOPAH AND TIDEWATER RAILROAD; TRONA RAILWAY; AND VISALIA ELECTRIC RAILROAD, FOR AN ORDER GRANTING PERMISSION TO ESTABLISH CERTAIN RATES ON CARRIERS, SECOND-HAND, EMPTY, RETURNED, CARLOAD AND LESS CARLOADS.

Application No. 7292.

Decided January 17, 1922.

CONTAINERS—RATES ON WHEN RETURNED EMPTY.— Short line carriers are authorized to establish the same rate for empty second-hand containers as the federal controlled lines were authorized to charge. It is pointed out that the applicants

do not handle a large volume of returned empty containers and that the application was prompted more by a desire for uniformity than increase in revenue.

W. R. Millar and T. J. Day, for Applicants, Pacific Electric Railway and Visalia Electric Railroad.

H. S. Graham, for Petaluma and Santa Rosa Railway.

R. B. Mitchell, for Bay Point and Clayton Railroad.

D. M. Swobe, for McCloud River Railroad.

James A. Keller, for Pacific Portland Cement Co.

L. H. Rodebaugh, for San Francisco-Sacramento Railroad and Nevada County Narrow Gauge Railroad.

LOVELAND, Commissioner.

OPINION.

This application of F. W. Gomph, agent, in the name of and on behalf of carriers shown in Exhibit "A" attached to and made a part of the application in this proceeding, all of which carriers are parties to Pacific Freight Tariff Bureau Exception Sheet 1-II, C.R.C. No. 254, acting under authority of power of attorney or formal concurrence in the said exception sheet on file with the Commission from each of said carriers, petitions the Railroad Commission under section 63 of the Public Utilities Act for an order granting permission to increase certain rates by readjusting the rates on second-hand returned empty carriers and on empty second-hand carriers moving outward for return paying load over the same route as the outbound movement.

The present rating on empty packages or carriers, not new, but having been used in transporting property and being returned to any point on lines of the parties to this proceeding, is carried in F. W. Gomph, agent's C.R.C. 254, item 270, and applies only on lines that were not under federal control during the war period, and provides a rating of 15 per cent of class rates per the current Western Classification or as may be amended in the exception sheet applying to the same packages new, subject to minimum charge the same as on shipments of new packages. The application, which was amended at the hearing, proposes a classification rating on less carloads of one-half of 4th class, subject to minimum scale, and on carloads, Class B, but not to exceed less than carload rate, minimum weight 12,000 pounds, subject to section 6 of rule 34 of current Western Classification or as an alternative basis, Class E, but not to exceed less than carload rate, minimum weight 30,000 pounds. In the case of boxes or crates, second-hand, it is proposed to apply minimum carload weight 12,000 pounds, subject to minimum charge \$8 per car and subject to rule 60-A in the current Western Classification.

Protestants at the hearing called attention to the fact that in some instances the application of the rates according to the rules produced higher freight charges for carloads of empty carriers

returned than the charges for less carloads. However, the application as amended in the paragraph above eliminates the possibility of a carload charge being higher than a less carload charge.

During the period of federal control the United States Railroad Administration canceled the 15 per cent of class rate basis on all federal controlled lines and established thereon a rating of one-half of 4th class for less than carloads and an alternative carload rating Class B, minimum 12,000 pounds or Class E, minimum 30,000 pounds. This did not apply to the lines *not* under federal control which were mostly short lines and therefore the previous rating was continued in effect on these non-federal controlled lines and the present application is to put rates applying on the non-federal controlled roads on a uniform basis with the rate applying over previous federal controlled lines.

The evidence showed that the higher basis of rates prescribed by the Railroad Administration now applies on shipments moving jointly over a former federal controlled line and a non-federal controlled line, thus we have two bases of rates applying between two points where two routes prevail, one of which is by a one-line haul and the other via a two or more line haul where one of the lines was previously under federal control and the others were not. The rating on less carloads empty boxes returned moving from Oakland to Chico via the Southern Pacific Company, a former federal controlled line, would be higher than via the San Francisco and Sacramento Railroad and Sacramento Northern, both non-federal controlled, while via the Southern Pacific and Sacramento Northern, the one a federal controlled, the other a non-federal controlled road, between the same points the rate would be the same as if the shipment moved over one line which was formerly under federal control.

In addition to the 15 per cent basis being low, the application of the rates for two-line haul is productive of confusion and also creates a discriminatory situation. I can conceive no good reason why the basis should be different over lines which were formerly not under federal control from that applying over the lines that were formerly under federal control and in addition it is to the best interest of all concerned that the rates be uniform.

The rating of 15 per cent of class rate basis is one of the lowest ratings on any commodity handled by these carriers. It was further shown that these applicants, former non-federal controlled lines, do not handle a very great volume of returned empty carriers and that the application in this proceeding was prompted more by a desire for uniformity than by the possible increase in revenue.

Furthermore, it is well known that the short line carriers are not in good financial condition; that they need additional revenue and inasmuch as the applicants in this proceeding are practically all short lines, as described above, I believe they are entitled to whatever additional revenue will accrue under the proposed rates.

This case being at issue upon application on file and having been duly heard and submitted by the parties and full investigation of the matters and things involved having been had, I find that the application in this proceeding as amended should be granted.

ORDER.

It is hereby ordered, that F. W. Gomph, agent for carriers listed in Exhibit "A" attached to and made a part of the application in this proceeding, be and he is hereby authorized to establish, on five (5) days notice, the classification rating as proposed in the application in this proceeding as amended.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventeenth day of January, 1922.

DECISION No. 9993.

IN THE MATTER OF THE APPLICATION OF BOND AND JONES WATER COMPANY, A COPARTNERSHIP, FOR AN ORDER PERMITTING SAID COPARTNERSHIP TO DISCONTINUE THE FURNISHING OF WATER TO THE CITIZENS OF THE CITY OF ORANGE.

Application No. 7210.

Decided January 17, 1922.

WATER UTILITY—TO DISCONTINUE SERVICE—ADEQUATE ALTERNATIVE SUPPLY.—

It having been shown that an adequate alternative supply is available in the municipal system, Bond and Jones Water Company is authorized to discontinue service within the limits of the city of Orange.

L. F. Coburn, for Applicant.

BY THE COMMISSION.

OPINION.

This is an application of Bond and Jones Water Company, a copartnership, engaged in the business of distributing and selling water for domestic purposes in and in the vicinity of the city of Orange. In this proceeding applicant asks permission to discontinue service to some fifteen consumers within the city limits, it being alleged in effect that in order to continue adequate service the replacement of approximately one mile of pipe will be required; and that all of such consumers can

be supplied from the municipal water system of the city of Orange, which has pipes in all the streets in which applicant now furnishes water.

A public hearing in this matter was held at Orange, before Examiner Williams, of which all of applicant's consumers were notified and given an opportunity to appear and to be heard.

Testimony shows that this utility commenced water service in 1906, having at that time between thirty-five and forty consumers. Subsequently the city of Orange built its municipal water system, paralleling the distribution mains of this utility, and the majority of consumers have gradually changed over to the city's system, leaving only thirteen consumers connected to applicant's pipe lines, all of whom can be served from the municipal plant.

It was shown that in order to continue service it would be necessary to replace approximately one mile of distribution main, and that the revenue which could be derived from the remaining consumers would not justify the necessary expenditure. Only one consumer appeared to protest the discontinuance of the service, his objection being against the quality of water served by the municipal plant, which objection, according to the testimony of city officials, was not now well founded.

After a careful consideration of the evidence, the conclusion is reached that there is an adequate alternative water supply available for the use of all consumers, and that it would be unjust to require the replacement of the necessary distribution mains and the continuation of the supply in competition with the municipal system, whose mains are already in place in the streets.

ORDER.

Bond and Jones Water Company, a copartnership furnishing water to consumers in and in the vicinity of the city of Orange, having made application to this Commission for authority to discontinue the service of water to consumers within the limits of the city of Orange, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that public convenience and necessity do not require the continued operation of Bond and Jones Water Company's system within the limits of the city of Orange.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion:

It is hereby ordered, that Bond and Jones Water Company, a copartnership, be and the same is hereby authorized to discontinue the service of water to consumers within the limits of the city of Orange, on February 28, 1922.

It is hereby further ordered, that within ten (10) days of the date of this order Bond and Jones Water Company be and the same is hereby directed to notify each consumer in writing of its intention to discontinue service on February 28, 1922.

It is hereby further ordered, that Bond and Jones Water Company be and the same is hereby directed to furnish this Commission, within fifteen (15) days of the date of this order, an affidavit setting forth the fact that each consumer affected by this order was duly notified of such intention to discontinue service.

Dated at San Francisco, California, this seventeenth day of January, 1922.

DECISION No. 9994.

IN THE MATTER OF THE APPLICATION OF RIVER BEND GAS AND WATER COMPANY, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE A FRANCHISE FOR THE DISTRIBUTION OF GAS IN THE CITY OF SANGER, FOR AUTHORITY TO MORTGAGE ITS PROPERTIES, AND FOR A PERMIT TO ISSUE AND SELL BONDS AND STOCK.

Application No. 7402.

Decided January 17, 1922.

Chaffee E. Hall, for Applicant.

BENEDICT, *Commissioner*.

OPINION.

In this application, as amended at the hearing, River Bend Gas and Water Company asks permission to execute a new mortgage, to issue and sell at not less than 90 and accrued interest \$200,000 face value of 7 per cent 20-year bonds and to issue and sell at not less than \$90 per share 500 shares (\$50,000) of 7 per cent cumulative preferred stock for the purpose of refunding indebtedness and paying for additions and betterments.

The company also asks permission to issue \$91,640 of common stock and \$25,000 of 6 per cent first mortgage bonds in lieu of a like amount of stock and bonds issued without authority from the Railroad Commission. Reference is hereafter made to the conditions under which the stock and bonds were issued.

In the original application, applicant asked the Commission to make an order declaring that public convenience and necessity require applicant to extend its gas transmission and distribution system into Sanger. At the hearing this request was withdrawn for the reason that applicant has concluded upon a more intensive development of the territory throughout which it now operates. Applicant therefore requests the

Commission to dismiss without prejudice this application in so far as it relates to the granting of permission to construct and operate a gas transmission and distribution system in Sanger.

In brief, this application involves the refinancing of the properties of River Bend Gas and Water Company and the securing of moneys necessary to pay for extensions, additions and betterments.

River Bend Gas and Water Company was organized on or about April 2, 1915. It is engaged in the business of producing, distributing and selling water in, and in the vicinity of, the town of Parlier, county of Fresno, and in the business of generating and producing gas in the city of Dinuba, county of Tulare, and of distributing and selling gas in, and in the vicinity of, said city of Dinuba, and in, and in the vicinity of, the towns of Reedley, Kingsburg, and Parlier in the county of Fresno. In general, applicant's water system is said to consist of a well, water-tower and a 35,000-gallon tank, a steam-driven pump in the town of Parlier, over 4 miles of distributing mains, and the necessary services and meters and other equipment for the delivery of water to about 220 consumers in Parlier and vicinity.

Applicant reports that it owns a gas generating plant and holder in Dinuba; that the plant has a 24-hour generating capacity of 450,000 cubic feet; that the holder has a capacity of 40,000 cubic feet and that it owns and operates about 28 miles of transmission mains connecting the cities and towns of Dinuba, Reedley, Kingsburg and Parlier; about 36 miles of distributing mains, a municipal street lighting system in the town of Parlier and the necessary regulators, meters and services for the delivery of gas to approximately 1700 consumers.

Applicant reports the cost of its properties, exclusive of materials and supplies, working capital and going concern value at \$327,000.

In Exhibit "1" applicant reports that it should forthwith expend for additions and betterments the sum of \$49,974 for the following purposes:

Gas department:

One holder capacity 100,000 feet, estimated cost including foundation, painting	\$25,000 00
Boosting apparatus, pipe connection between holder for reducing Dinuba to low pressure	5,000 00
Installing approximately 2500 lineal feet of 4-inch supply pipe from plant welded, painted and laid at 70 cents	1,750 00
Installing approximately 5000 lineal feet of 2-inch pipe welded, painted and laid at 30 cents for connecting dead ends and high pressure line in Dinuba	1,500 00
150 new services including meters and regulators, and extensions to distributing mains	5,700 00
Overhead 12 per cent	1,024 00

Water department:

Installing gas engine, electric motor, pump pit at water works in Parlier for fire protection estimate	10,000 00
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Total \$49,974 00

Applicant estimates that it can save approximately \$2,400 per annum by the substitution of electric for steam power for the operation of its pumping plant, and that its net operating revenue from the sale of gas will be increased by about \$6,000 on account of the installation of the improvements set forth in its Exhibit No. "1."

The Commission by Decision No. 4936, dated December 6, 1917, as amended, (Vol. 14, Opinions and Orders of the Railroad Commission of California, p. 683) authorized applicant to issue on or before December 31, 1918, \$138,467 of common stock and \$75,000 of first mortgage 6 per cent bonds due October 1, 1932. The company sold to the Parlier Winery \$81,777 of the stock at \$90 and \$50,000 of the bonds at par. The Railroad Commission's Decision No. 6493, dated July 16, 1919, (Vol. 17, Opinions and Orders of the Railroad Commission of California, p. 41) authorized applicant to issue on or before December 15, 1919, \$25,000 of bonds and \$91,640 of stock to the Parlier Winery in liquidation of \$87,062.76 advanced by the Parlier Winery and used by applicant to pay for additions and betterments. It appears from the record in this proceeding that the \$25,000 of bonds and \$91,640 of stock was issued subsequent to December 15, 1919. We, therefore, questioned the validity of the \$25,000 of 6 per cent bonds and \$91,640 of stock.

Applicant now asks that it be permitted to issue \$25,000 of its 6 per cent bonds and \$91,640 of stock in lieu of a like amount of bonds and stock which it has heretofore issued subsequent to December 15, 1919. I am satisfied that applicant issued the bonds and stock in question inadvertently, and therefore, I believe that its request should be granted.

If applicant issues the stock and bonds mentioned, it will have outstanding \$173,417 of stock and \$75,000 of 6 per cent bonds. The stock and bonds were all acquired by the Parlier Winery at an average cost of about 85.

Applicant reports that subsequent to December 31, 1918, it expended for additions and betterments, which expenditures have not been capitalized, the sum of \$81,885.74. In its application, it requests permission to redeem the \$75,000 of outstanding bonds at 105, which would call for a cash expenditure of \$78,750. In addition, applicant reports that it should forthwith expend for additions and betterments \$49,974 and that it should have available for working capital at least \$14,390.26. The sum of the four items is \$225,000. This \$225,000 applicant proposes to secure through the issue of \$50,000 of 7 per cent preferred stock at not less than 90 and \$200,000 of 7 per cent 20-year bonds at not less than 90.

Applicant has at present an authorized bonded indebtedness of \$250,000. The bonds bear interest at the rate of 6 per cent per annum

and mature April 1, 1932. As said, \$75,000 of the bonds have been issued under the circumstances mentioned above leaving \$175,000 unissued. The bonds are callable at 105 and accrued interest. Applicant reports that it can not sell 6 per cent bonds except at a large discount and that, therefore, and because of the further reason that its authorized bonded indebtedness is only \$250,000; it has concluded to execute a new \$500,000 mortgage which will permit of the issue of bonds in series at such rate of interest as the board of directors may from time to time determine. Applicant has not filed a copy of its proposed mortgage. It requests permission to issue under its proposed mortgage \$200,000 of Series "A" 7 per cent bonds due January 1, 1942. The Series "A" bonds shall be callable at 105 and accrued interest during the first five years after their issue; at 104 and accrued interest during the second 5-year period after their issue; at 103 and accrued interest during the third 5-year period after their issue and at 102 and accrued interest during the fourth 5-year period after their issue. The remaining \$300,000 of bonds shall be issuable in series and as to each series the board of directors may fix the date of issue, the date of maturity (not later than January 1, 1962), the interest rate and redemption price. Other details of the proposed mortgage are mentioned by the applicant. Not until the Commission has before it a complete copy of the mortgage can an order be made authorizing the execution of the mortgage. In view of the probable extension of applicant's system into new territory and the increasing demand for service throughout the territory in which it is now operating, I feel that applicant should at this time be permitted to execute a new mortgage. I do not believe, however, that applicant should be permitted to sell 7 per cent bonds at 90 for the purpose of redeeming 6 per cent bonds at 105. Applicant has now outstanding \$75,000 of 6 per cent bonds. To redeem these at 105 requires \$78,750 in cash. To raise this amount from the sale of bonds at 90 would call for the issue of \$87,500 of 7 per cent bonds. Through the proposed refunding, applicant's bonded indebtedness would be increased by the sum of \$12,500 and its annual interest charges by the amount of \$875. I am willing to recommend that applicant be permitted to redeem its outstanding bonds at par.

Applicant should file with the Commission as soon as available a copy of its amended articles of incorporation.

I herewith submit the following form of order:

ORDER.

River Bend Gas and Water Company having applied to the Railroad Commission for permission to issue stock and bonds and execute a mortgage, a public hearing having been held and the Railroad Com-

mission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the expenditures are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that River Bend Gas and Water Company be and it is hereby authorized to issue \$91,640 of common stock and \$25,000 of 6 per cent bonds in lieu of a like amount of stock and bonds heretofore issued without an order from this Commission.

It is hereby further ordered, that River Bend Gas and Water Company be and it is hereby authorized to issue and sell at not less than \$90 per share 500 shares (\$50,000 par value) of its 7 per cent cumulative preferred stock, and to issue and sell for not less than 90 per cent of their face value and accrued \$200,000 of Series "A" 7 per cent 20-year bonds.

The authority herein granted is subject to further conditions as follows:

1. The authority herein granted to issue stock will not become effective until applicant has filed with the Commission a copy of its amended articles of incorporation.

2. The proceeds realized from the sale of the stock may be used by applicant to finance in part its construction expenditures subsequent to December 31, 1918, and through such financing pay current indebtedness, all of which is referred to in this application.

3. The proceeds realized from the sale of the bonds herein authorized to be issued shall be deposited with a bank or banks and expended only for such purposes as the Railroad Commission may hereafter authorize by a supplemental order or orders.

4. River Bend Gas and Water Company shall keep such record of the issue, sale and delivery of the stock and bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

5. The authority herein granted to issue bonds will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$125; nor until this Commission has authorized applicant to execute a mortgage to secure the payment of the bonds.

6. The authority herein granted will apply only to such stock and bonds as may be issued, sold and delivered on or before October 1, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventeenth day of January, 1922.

DECISION No. 9995.

IN THE MATTER OF THE APPLICATION OF EUCLID AVENUE WATER COMPANY FOR PERMISSION TO INCREASE RATES OF WATER OF SAID COMPANY.

Application No. 6990.

Decided January 17, 1922.

Theodore F. Taylor and J. E. Jardine, for Applicant.

BY THE COMMISSION.

OPINION.

Euclid Avenue Water Company, owning and operating a water system supplying water for domestic and irrigation purposes to approximately 30 consumers located upon a tract of 160 acres in and in the vicinity of South Pasadena, Los Angeles County, asks permission to increase rates.

The application alleges in effect that the present irrigation rates of one cent per weir inch per hour, and the domestic rates of \$1 per month for 1000 cubic feet with all in excess thereof at the irrigation rate, do not produce sufficient revenue to cover the cost of maintaining and operating the system.

Applicant therefore asks permission to increase the present rates 25 per cent, and submitted a petition signed by all the consumers, signifying their willingness that such an increase be granted.

A public hearing in the matter was held at Los Angeles before Examiner Williams, of which all consumers were notified and given an opportunity to be present and to be heard.

The system consists of two 18-inch wells, a 15 horsepower electric motor connected to a No. 10 Pomona pump, a 30 horsepower electric motor directly connected to a Layne and Bowler pump, an asphalt lined earthen reservoir, and approximately 10,000 feet of distribution pipe ranging from 4 to 10 inches in diameter.

Mr. F. H. Van Hoesen, one of the Commission's hydraulic engineers, submitted a report based upon an investigation of the system, which shows an estimate of future maintenance and operating expense, amounting to \$3,630, and a depreciation annuity computed by the sinking fund method of \$479.

Mr. Van Hoesen's report and other testimony presented indicates an estimated original cost of the system of \$25,329.

The annual charges based upon the foregoing items are as follows:

Return at 8 per cent upon \$25,329	\$2,026 00
Depreciation annuity	479 00
Maintenance and operating expense	3,630 00
Total annual charges	\$6,135 00

The revenues from the sale of water for 1920 were \$3,945, and for 1921 are estimated at \$3,900. It is therefore evident that applicant is entitled to an increase in rates.

The consumers, with one or two exceptions, are stockholders in the company, and the testimony shows that a full return upon the investment is not desired. The increase of 25 per cent desired by applicant appears reasonable and will produce sufficient revenue to cover maintenance and operating expense, depreciation annuity, and some return upon the investment. The proposed increase in rates, moreover, has the sanction of all consumers.

ORDER.

Euclid Avenue Water Company having made application for permission to increase rates, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that the present rates charged by Euclid Avenue Water Company for water delivered to consumers in and in the vicinity of South Pasadena, are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that Euclid Avenue Water Company be and it is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order, the following schedule of rates to be charged for water delivered to its consumers, such rates to be effective for all water delivered subsequent to January 31, 1922:

Irrigation Service.

Per weir inch per hour, which is equivalent to 36 cubic feet..... \$0 0125

Domestic Service.

Monthly charge for 1000 cubic feet or less..... \$1 25
All quantities in excess of 1000 cubic feet per month, per 100 cubic feet..... 0 035

It is hereby further ordered, that Euclid Avenue Water Company be and it is hereby directed to file with this Commission within thirty (30)

days from the date of this order, rules and regulations governing relations with its consumers, such rules and regulations to become effective upon their acceptance by this Commission.

Dated at San Francisco, California, this seventeenth day of January, 1922.

DECISION No. 9997.

IN THE MATTER OF THE APPLICATION OF CITY WATER COMPANY OF OCEAN PARK FOR AUTHORITY TO ISSUE AND SELL BONDS IN THE SUM OF THIRTY-SEVEN THOUSAND DOLLARS AND TO EXECUTE OR RENEW PROMISSORY NOTES FOR A PERIOD LONGER THAN ONE YEAR.

Application No. 7447.

Decided January 17, 1922.

LeRoy M. Edwards, for Applicant.

BY THE COMMISSION.

OPINION.

City Water Company of Ocean Park asks permission to issue and sell, on an 8 per cent basis or better, \$37,000 of its first mortgage 6 per cent serial gold bonds, or, in the event that it is unable to dispose of its bonds, to issue at face value \$37,950 of its promissory notes bearing interest at not more than 7 per cent per annum and maturing on or before two years after date of issue.

A public hearing was held before Examiner Williams in Los Angeles on January 4, 1922.

City Water Company of Ocean Park was organized on or about April 15, 1905, with an authorized stock issue of \$200,000 of common stock, all of which is at present outstanding.

The company reports its assets and liabilities, as of November 30, 1921, as follows:

<i>Assets.</i>	
Fixed capital	\$295,070 76
Cash	741 35
Materials and supplies	7,306 45
Notes receivable	200 00
Accounts receivable	21 10
Consumers' accounts	865 25
Prepaid insurance	110 05
U. S. government bonds	3,000 00
City Water Company of Ocean Park	12,000 00
Unamortized discount on stock	101,000 00
Total assets	\$420,314 96

<i>Liabilities.</i>	
Capital stock -----	\$200,000 00
Funded debt -----	15,000 00
Notes payable -----	17,950 00
Accounts payable -----	2,079 39
Consumers' deposits -----	879 70
Special deposits -----	70 00
Interest and taxes accrued -----	976 25
Reserve for accrued depreciation -----	48,387 03
Income invested in fixed capital -----	124,168 30
Surplus -----	10,804 29
Total liabilities -----	\$420,314 96

The record shows that on January 1, 1917, applicant executed a first mortgage securing the payment of \$50,000 of first mortgage 6 per cent bonds maturing in equal annual installments of \$5,000 on the first day of January of each of the years 1921 to 1930, both inclusive. Subsequently, applicant issued \$15,000 of its bonds, of which all but \$3,000 have been reacquired by the company.

Applicant now proposes to issue \$37,000 of its bonds and to use the proceeds to pay its outstanding short term notes of \$17,950, and to pay the cost of new transmission mains. The testimony of G. M. Jones, applicant's president and general manager, shows that the \$17,950 of notes, which bear interest at 7 per cent, were issued during 1921 to obtain funds to pay for additions and betterments to its plant and properties, consisting, in general, of a new deep well pump, two booster pumps, additional garage and buildings and additional pipe lines.

Applicant further reports that in order to give its consumers adequate service it proposes to install, at a cost of \$16,947.45, a new main transmission line from its existing pumping plant to the speedway, a distance of approximately one mile. This line will consist of 250 feet of 14-inch cast iron pipe, 1025 feet of 12-inch cast iron pipe, 1550 feet of 10-inch cast iron pipe, 3100 feet of 8-inch cast iron pipe, and 450 feet of 4-inch cast iron pipe. G. M. Jones testified that the pipe now in use which will be replaced by this proposed new line will be used in other portions of applicant's system.

The bonds which applicant asks permission to issue mature serially in equal annual installments of \$5,000 on the first day of January of each of the years 1923 to 1930, except in the year 1926, when only \$2,000 are payable. The testimony shows that applicant has made no arrangements for the sale of its bonds. It however requests permission to sell them on an 8 per cent basis or better, which means a selling price ranging from 88 to 98. In Application No. 7100, a rate proceeding, applicant reports the cost of its properties at \$247,164.57. In the same proceeding, the Commission's engineers introduced an exhibit showing the estimated original cost of the operative properties to be \$209,191.

If applicant were to sell the bonds and use the proceeds as indicated in this application, its total bonded debt will be \$40,000 while its current indebtedness is only of a nominal amount. The company's net earnings as shown by Exhibit No. 2 are considerably in excess of \$2,400, the annual interest charge on \$40,000 of 6 per cent bonds. In view of the facts before the Commission, it occurs to us that applicant should be able to sell its bonds at prices ranging from 93.9 to 99 or on a 7 per cent basis.

Applicant also asks permission, in the event that it is unable to dispose of its bonds, to issue its promissory notes in the aggregate face amount of \$37,950, in which case, \$17,950 of notes will be used to refund the \$17,950 of notes now outstanding and the balance to pay for the transmission main. Such notes, should they be issued, will bear interest at not more than 7 per cent per annum, will mature on or before two years after date of issue and probably will be endorsed personally by G. M. Jones, applicant's president.

ORDER.

City Water Company of Ocean Park having applied to the Railroad Commission for permission to issue bonds or notes, a public hearing having been held and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified herein and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that City Water Company of Ocean Park be and it is hereby authorized to issue and sell \$37,000 of its first mortgage 6 per cent bonds for the purpose of paying the \$17,950 of notes and financing the cost of its proposed new transmission main, all of which are referred to in the preceding opinion.

It is hereby further ordered, that City Water Company of Ocean Park be and it is hereby authorized to issue, in lieu of the \$37,000 of bonds herein authorized, \$37,950 face value of its promissory notes, of which \$17,950 shall be used to refund the notes now outstanding and the balance to pay the cost of the proposed transmission main, all of which are referred to in the preceding opinion.

The authority herein granted is subject to the following conditions:

1. The bonds herein authorized, if issued, shall be sold on a 7 per cent basis, or better.
2. The notes herein authorized shall be issued at face value, shall bear interest at not exceeding 7 per cent per annum, and shall mature on or before two years after date of issue. Applicant may, if it so

desires, issue the notes for a period of less than two years and renew them from time to time, provided that the combined term of the notes herein authorized and of those issued in renewal thereof shall not exceed two years from the date of the first note issued under this order.

3. Applicant shall keep such record of the issue of the bonds and notes herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

4. The authority herein granted will not become effective until applicant has paid the fee prescribed by the Public Utilities Act, which fee is \$38.

5. The authority herein granted will apply only to such bonds and notes as may be issued on or before December 31, 1922.

Dated at San Francisco, California, this seventeenth day of January, 1922.

DECISION No. 9999.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY AND CITY OF REDDING FOR AN ORDER OF THE RAILROAD COMMISSION OF CALIFORNIA ESTABLISHING RATES FOR THE SALE BY SAID COMPANY TO SAID CITY OF ELECTRIC ENERGY.

Application No. 7411.

Decided January 17, 1922.

C. P. Catten, for Pacific Gas and Electric Company.
W. D. Tillotson, for the City of Redding.

BRUNDIGE, *Commissioner*.

OPINION.

Pacific Gas and Electric Company, hereinafter referred to as the company, and city of Redding, hereinafter referred to as the city, join in this application asking the Railroad Commission to fix the proper rate to be charged by the company for electric energy to be furnished to the city.

The city has just purchased the electrical distribution system of the company and proposes to purchase energy wholesale for distribution to its inhabitants. As the schedules of the company are now filed with this Commission there appears a question whether there is a schedule technically applicable to this service in the territory in which

the city of Redding is located. The city is supplied from lines formerly the property of Northern California Power Company, Consolidated, but now owned by Pacific Gas and Electric Company. Pacific Gas and Electric Company offers its standard Schedule P-7 for this service although this schedule has not heretofore been applicable to territory formerly served by Northern California Power Company, Consolidated. The city contends that it is entitled to Schedule NP-9, the wholesale power schedule now and heretofore in effect on that portion of the system serving Redding.

I have given consideration to the contention of both parties and the rate schedules in effect and find that Schedule NP-9 of Pacific Gas and Electric Company as modified by existing surcharges in effect is the standard wholesale power schedule in the territory including Redding, and that this schedule is applicable to the wholesale service to the city of Redding, the discounts in said schedule to be based upon the necessary substation capacity instead of the connected load of the system.

I recommend the following form of order:

ORDER.

Pacific Gas and Electric Company and the city of Redding having applied to the Commission for the establishment of a rate for service to the city of Redding, a hearing having been held and the matter being submitted:

The Commission hereby finds as a fact that the existing Schedule NP-9 of Pacific Gas and Electric Company is a reasonable rate to be charged at this time for electric service to the city of Redding by Pacific Gas and Electric Company, pending final determination of the rates in the proceeding now before the Commission, and directs that this rate be charged for the service, the discounts as prescribed therein being based upon the substation capacity as distinguished from connected load.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventeenth day of January, 1922.

DECISION No. 10,000.

IN THE MATTER OF THE APPLICATION OF MAGGIE L. NOFZIGER AND
WILLIAM H. KERSTEINER FOR PERMISSION TO SELL BY MAGGIE
L. NOFZIGER TO WILLIAM H. KERSTEINER THE DOMESTIC
WATER PLANT AT COACHELLA, CALIFORNIA.

Application No. 7403.

Decided January 17, 1922.

BY THE COMMISSION.

ORDER.

Maggie L. Nofziger and William H. Kersteiner having made joint application to this Commission for authority to transfer a domestic water system at Coachella, Riverside County, and it appearing that the interest of consumers will be best served if the transfer is authorized; and it further appearing that this is not a matter in which a public hearing is necessary, and that the application should be granted;

It is hereby ordered, that Maggie L. Nofziger be and she is hereby authorized to sell and transfer to William H. Kersteiner, a certain domestic water system located at Coachella, more particularly described in Appendix "A" attached hereto and made a part hereof, subject to the following conditions:

1. The authority herein granted shall apply only to such transfer as shall have been made on or before March 1, 1922, and a certified copy of the instrument of conveyance shall be filed with this Commission by said Maggie L. Nofziger within thirty (30) days from the date on which it is executed.

2. Within ten (10) days from the date on which Maggie L. Nofziger actually relinquishes control and possession of the property herein authorized to be sold, said Maggie L. Nofziger shall file with this Commission a certified statement indicating the date upon which such control and possession was relinquished.

3. The consideration given for the transfer of this water system shall not be urged before this Commission or any other public body as a finding of value of the property for rate fixing or for any purpose other than the transfer herein authorized.

Dated at San Francisco, California, this seventeenth day of January, 1922.

APPENDIX "A."

Schedule of property comprising the water system at Coachella, Riverside County, California, to be transferred to William H. Kersteiner by Maggie L. Nofziger.

1. One six-inch well 600 feet deep.
2. One eight-inch well 300 feet deep.
3. One 10,000-gallon water tank.

4. Electric motor, pump, automatic starter and cutout.
5. Approximately 4000 feet of six-inch pipe.
6. Approximately 12,000 feet of pipe less than six-inch pipe.
7. Approximately 140 service connections.
8. Lot 9, Block 24, Town of Coachella.

DECISION No. 10,001.

IN THE MATTER OF THE APPLICATION OF ONTARIO INVESTMENT COMPANY FOR AN ORDER PERMITTING IT TO ESTABLISH METER RATES, TO SELL AND TRANSFER PROPERTY AND THEREUPON BE RELIEVED OF ITS OBLIGATIONS AS A PUBLIC SERVICE CORPORATION AS TO SUCH PROPERTY.

Application No. 7140.

Decided January 20, 1922.

WATER UTILITY—TO SELL STOCK IN MUTUAL COMPANY—METERS.—Application to sell certain shares of stock in a mutual water company, from which applicant obtains its supply for distribution denied without prejudice, as it was not shown that the residual stock would assure sufficient water. Metering of system approved and meter rates established.

James E. Bennett, for Applicant.

W. S. Bullis, for Growers Fruit Company.

BY THE COMMISSION.

OPINION.

Ontario Investment Company owns and operates a small water system in the town of West Cucamonga, San Bernardino County, which supplies water for domestic purposes to some twenty-five consumers, and for commercial use to a fruit packing establishment.

The application herein alleges in effect that in October, 1919, applicant, then being the owner of 21.4 shares of stock in Cucamonga Water Company, sold to W. H. Stipe ten of these shares of stock, and sold to George L. Winter eight shares, without first obtaining authority from this Commission.

It is further alleged that applicant will be assured of an ample supply of water to care for all demands of its consumers through the ownership of eight shares of stock of Cucamonga Water Company.

The Commission is therefore asked to authorize the transfer of 7.4 shares of stock of Cucamonga Water Company to W. H. Stipe, and six shares of such stock to George L. Winter, conditioned upon the retransfer to applicant of the eighteen shares of stock formerly sold to these parties.

The Commission is also asked to authorize a schedule of meter rates for use upon applicant's system similiar to the schedule in force upon the water system operated by N. M. Van Fleet in the immediate vicinity.

A public hearing in this matter was held at Ontario before Examiner Satterwhite, of which all interested parties were notified and given an opportunity to be present and to be heard.

At this hearing it was stipulated that the evidence taken at the hearing of Case No. 1584, *In the matter of the Commission's investigation into the sufficiency of the water supply, adequacy of service, rules, regulations and practices of the Ontario Investment Company, and the territory served or to be served by said company in its operations as a public utility water system*, may be deemed as evidence in this proceeding in so far as applicable.

The water supply furnished consumers by the applicant is obtained from Cucamonga Water Company, a mutual concern, through ownership of shares of stock therein. Originally applicant owned 21.4 shares of such stock, but, in 1919, 10 shares were sold to W. H. Stipe and 8 shares to George L. Winter, both of the sales having been made without obtaining authority from this Commission.

Applicant now desires permission to sell 7.4 shares to Stipe and 6 shares to Winter, conditioned upon the retransfer by Stipe and Winter of the stock formerly conveyed without authority. This procedure would result in the retention by applicant of 8 shares of stock to provide a water supply for consumers. During the course of the hearing applicant stated that an amendment of the application so as to authorize the sale of a total of ten shares would be satisfactory.

Applicant contends that the ownership of the residual shares of stock will provide an ample water supply for the present and future needs of consumers, and bases the assertion upon the operation of a public utility water system in the immediate vicinity, managed by N. M. Van Fleet, which supplies water for domestic purposes to from sixty to ninety consumers in North Cucamonga, and secures its supply from Cucamonga Water Company through the ownership of 23 shares of stock. Applicant also claims that each share of stock in Cucamonga Water Company entitles the owner to a quantity of water equivalent to a continuous flow of one-tenth of one miner's inch, or approximately 170 cubic feet per day.

Officials of the Cucamonga Water Company testified that although the intention was to allow one-tenth of a miner's inch flow for each share of stock issued, such an allowance could not at all times be depended upon as it was customary to prorate the available supply in case of shortage. It was also shown that the service by Cucamonga Water Company was primarily for irrigation use and was subject at times to interruption.

An examination of the stock certificates, articles of incorporation and by-laws of Cucamonga Water Company does not disclose any obligation to deliver one-tenth of one miner's inch continuous flow of water for each share of stock.

Testimony shows that applicant's water system is operated under flat rate charges of \$1 per consumer per month; that no storage facilities are provided; that the system receives practically no attention in its operation other than the collection of bills from such of the consumers who are willing to pay for service; that service has been inadequate; that the pipe system is in need of repair; and that there has been an excessive and wasteful use of water by some consumers. The installation of meters will tend to remedy the inadequacies of service and will go far toward a very general improvement of conditions.

A careful consideration of the evidence submitted does not indicate that applicant has made a conclusive showing of ability to supply the demands of consumers if the sale of stock were authorized. It is believed, however, that metering of the system and improved methods of operation will reduce use and waste of water and may, within a short time, indicate that a diminished supply will guarantee adequate service. At this time, however, such a showing has not been made and the application for authority to dispose of shares of stock of Cucamonga Water Company will be denied without prejudice. If it can later be shown that a portion of the stock can safely be disposed of, the Commission will give due consideration to such further application as may be made. It is obvious that metering of the system is the first step toward a conclusive showing of ability to supply all demands of consumers with a smaller amount of Cucamonga stock. The metering of the system should, therefore, be completed without delay.

Revenues from the sale of water on this system in the past have ranged from \$180 to \$190 per year, collections having been made from only a portion of the consumers.

The principal expense has been the payment of assessments on shares of stock in Cucamonga Water Company, which were \$18.50 per share in 1919 and have averaged \$11.30 per share per year from 1904 to 1921 inclusive.

Apparently at least \$600 per year will be required for efficient operation of the system, including stock assessments, and the probable revenues from the sale of water at the metered rates desired by applicant will not exceed this amount. Furthermore, the rates appear reasonable and it is evident that authority for their establishment should be granted.

ORDER.

Ontario Investment Company having made application to this Commission for authority to dispose of certain shares of stock of Cucamonga Water Company, and for permission to establish a metered rate for water delivered to consumers, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that the best interests of consumers require the ownership by Ontario Investment Company of 21.4 shares of stock of Cucamonga Water Company until such time as conclusive showing can be made that an adequate water supply can be secured through a lesser number of shares; and

It is hereby further found as a fact that the rates now charged by Ontario Investment Company for water delivered to consumers in West Cucamonga are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

And basing the order upon the foregoing findings of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that the application of Ontario Investment Company for authority to dispose of certain shares of stock of Cucamonga Water Company be and the same is hereby denied without prejudice.

It is hereby further ordered, that Ontario Investment Company file with this Commission within twenty (20) days from the date of this order, the following schedule of rates to be charged for water delivered to its consumers in West Cucamonga:

Flat Rate Schedule.

To remain as at present in effect until such time as meters are installed, whereupon the following metered rates shall be charged:

Meter Rate Schedule.

From 0 to 500 cubic feet, per 100 cubic feet	-----	\$0 20
From 500 to 1500 cubic feet, per 100 cubic feet	-----	0 16
Over 1500 cubic feet, per 100 cubic feet	-----	0 12
Minimum monthly payments	-----	1 00

It is hereby further ordered, that Ontario Investment Company file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern relations with its consumers, such rules and regulations to become effective upon their acceptance by this Commission.

Dated at San Francisco, California, this twentieth day of January, 1922.

DECISION No. 10,004.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO ISSUE, SELL AND DELIVER ITS FIRST PREFERRED CAPITAL STOCK OF THE AGGREGATE PAR VALUE OF FIVE MILLION DOLLARS; TO REIMBURSE ITS TREASURY FOR CAPITAL EXPENDITURES; AND TO FINANCE THE CONSTRUCTION OF ADDITIONS, EXTENSIONS AND IMPROVEMENTS TO ITS PROPERTIES AND THE PROPERTIES OF THE MOUNT SHASTA POWER CORPORATION IN THE MANNER SET FORTH HEREIN.

Application No. 7432.

Decided January 20, 1922.

W. B. Bosley and C. P. Cullen, for Applicant.

ROWELL, Commissioner.

OPINION.

Pacific Gas and Electric Company asks permission to issue and sell, at not less than \$85 per share, 50,000 shares (\$5,000,000) of its first preferred six per cent stock, and to use the proceeds, together with the proceeds from the sale of securities heretofore authorized to be issued, to reimburse its treasury and to pay in part the cost of constructing additions, betterments, extensions and improvements to its properties and to the properties of Mount Shasta Power Corporation controlled through stock ownership by applicant, as shown in Exhibits "B," "C," "D," and "E," filed in this proceeding.

Applicant has filed, in this proceeding, a copy of an amendment to its articles of incorporation which shows that recently it has reclassified its authorized capital stock of \$160,000,000 so as to provide for an issue of \$79,900,000 of first preferred stock, \$100,000 of original preferred stock and \$80,000,000 of common stock. Of these amounts the company as of November 30, 1921, reports outstanding \$39,783.910 of first preferred, \$47,600 of original preferred, and \$65,700,924.66 of common stock, including \$31,696,866.66 of common stock held by subsidiary companies.

The record shows that Pacific Gas and Electric Company and Mount Shasta Power Corporation require \$16,436,329.87 to finance capital expenditures incurred prior to October 31, 1921, or to be incurred subsequent thereto. The \$16,436,329.87 consists of the following items:

Unreimbursed capital expenditures at October 31, 1921, of Pacific Gas and Electric Company and Mount Shasta Power Corporation	\$2,000,193 76
Capital expenditures authorized at October 31, 1921, by Mount Shasta Power Corporation (Pit River development)	7,235,223 89
Capital expenditures authorized at October 31, 1921, by Pacific Gas and Electric Company	3,441,912 22
Estimated new construction of the Pacific Gas and Electric Company for the years 1921-1922	3,150,000 00
Total	\$16,436,329 87

The estimated capital expenditures of the two companies after October 31, 1921, aggregate \$13,827,136.11 and are distributed by them to the various departments as follows:

Electric department.....	\$11,320,515 84
Gas department.....	1,619,219 29
Water department.....	384,003 46
Railway department.....	255,912 56
Steam sales department.....	27,505 60
Miscellaneous—all departments.....	219,979 36
Total.....	\$13,827,136 11

Applicant proposes to finance a large portion of the reported capital expenditures of \$16,436,329.87 by the use of proceeds obtained or to be obtained from the sale of securities heretofore authorized to be issued and sold. It reports that it will receive, or has already received, the sum of \$9,926,248.31 from the sale of stock and bonds authorized to be issued by orders in decisions in applications numbers 4704; 5898; 6229; 6585; 6761; 7234; and 7356, and that on October 31, 1921, there was unsold \$1,327,700 of preferred stock authorized by the decision in Application No. 7234. Deducting the \$9,926,248.31 and the \$1,327,700 from the \$16,436,329.87 of expenditures, leaves a balance of \$5,182,381.56 to be paid for in part with proceeds obtained from the sale of the \$5,000,000 of stock herein applied for.

Applicant reports that it has received \$10,814.60 as accrued interest upon the sale of the \$10,000,000 of bonds sold pursuant to Decision No. 9788, dated November 21, 1921, in Application No. 7356. It asks permission to use this sum of \$10,814.60 for the payment of the first semiannual installment of interest to become due on these bonds. Applicant will be authorized to use this money to finance capital expenditures and reimburse its treasury.

I herewith submit the following form of order:

ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission for permission to issue stock and to expend proceeds obtained from the sale of its stock and bonds, a public hearing having been held and the Railroad Commission being of the opinion that the application should be granted and that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in this order, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, as follows:

(a) Pacific Gas and Electric Company may issue and sell on or before December 31, 1922, at not less than \$85 per share net, 50,000 shares (\$5,000,000) of its first preferred 6 per cent cumulative stock

and to use the proceeds to finance, in part, such cost of the additions, betterments and improvements described in exhibits filed in this proceeding as may be properly chargeable to capital account, as defined by the classification of accounts prescribed or adopted by the Railroad Commission and through such financing reimburse its treasury on account of income expended to pay for such additions, betterments and improvements.

(b) The order in decisions in applications numbers 4704; 5898; 6229; 6585; 6761; 7234; and 7356 are modified so as to permit applicant to use the remaining unexpended proceeds received or to be received from the sale of the stock and bonds authorized to be issued and sold under said orders to finance, in part, such cost of the additions, betterments and improvements described in exhibits filed in this proceeding as may properly be chargeable to capital account, as defined by the classification of accounts prescribed or adopted by the Railroad Commission, and through such financing reimburse its treasury on account of income expended to pay for such additions, betterments and improvements.

(c) Pacific Gas and Electric Company shall keep such record of the issue and sale of the stock herein authorized and of the expenditures herein authorized as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

(d) The orders in decisions in applications numbers 4704; 5898; 6229; 6585; 6761; 7234; and 7356 shall remain in full force and effect, except as modified by this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twentieth day of January, 1922.

DECISION No. 10,005.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO ISSUE, SELL AND DELIVER TEN MILLION DOLLARS, FACE AMOUNT OF APPLICANT'S FIRST AND REFUNDING MORTGAGE GOLD BONDS OF SERIES "B" AND TO USE THE PROCEEDS FOR THE PURPOSE OF REFUNDING APPLICANT'S FIVE-YEAR SEVEN PER CENT COLLATERAL TRUST CONVERTIBLE GOLD NOTES IN THE AGGREGATE AMOUNT OF TEN MILLION DOLLARS.

Application No. 7493.

Decided January 20, 1922.

Wm. B. Bosley and C. P. Cullen, for Applicant.

BENEDICT, Commissioner.

OPINION.

Pacific Gas and Electric Company asks permission to issue and sell at 95½ per cent of their face value and accrued interest \$10,000,000 of first and refunding mortgage 6 per cent 20-year gold bonds of Series "B" and to use the proceeds to pay in part \$10,000,000 of 7 per cent collateral trust convertible gold notes. The company also asks permission to deposit the \$16,000,000 of general and refunding mortgage 5 per cent bonds, now deposited to secure the payment of the notes, with the trustee under its first and refunding mortgage.

The first and refunding bonds which applicant asks permission to issue are to be dated December 1, 1921, and to mature December 1, 1941, and will be non-callable. Applicant asks that it be permitted to use the accrued interest received to pay part of the first semiannual interest due on the bonds.

The Railroad Commission, by Decision No. 7452, dated April 21, 1920, in Application No. 5598, authorized applicant to issue and sell at not less than 92¾ per cent of their face value and accrued interest \$10,000,000 of 5-year 7 per cent collateral trust convertible gold notes. The notes are dated May 1, 1920, and mature May 1, 1925. The company has issued all the notes granted under the authority of the Commission. They are payable on any interest payment date at 101 and accrued interest.

Applicant's Exhibit "1" shows that its board of directors has concluded to redeem the collateral trust convertible gold notes on May 1, 1922. In the opinion of A. F. Hockenbeamer, applicant's second vice president and treasurer, the redemption of the notes is desirable at this time and will be beneficial to the company.

I herewith submit the following form of order:

ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission for permission to issue bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of the bonds herein authorized is reasonably required by applicant and that the expenditures herein authorized, other than the payment of interest, are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Pacific Gas and Electric Company be and it is hereby authorized to issue and sell on or before April 1, 1922, at not less than 95½ per cent of their face value and accrued interest, \$10,000,000 of its first and refunding mortgage 6 per cent 20-year gold bonds of Series "B," and use \$9,550,000 of the proceeds to pay in part the \$10,000,000 of 5-year 7 per cent collateral trust convertible gold notes described in this application, and use such remainder of the proceeds as may represent accrued interest to pay part of the first semiannual interest due on the first and refunding mortgage bonds.

It is hereby further ordered, that Pacific Gas and Electric Company may deposit and pledge with the Mercantile Trust Company, the California trustee, under its first and refunding mortgage dated December 1, 1920, the \$16,000,000 face value of general and refunding mortgage gold bonds now deposited to secure the payment of the \$10,000,000 of 7 per cent collateral trust convertible gold notes as requested in this application.

It is hereby further ordered, that Pacific Gas and Electric Company shall keep such record of the issue, sale and deposit of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twentieth day of January, 1922.

DECISION No. 10,006.

IN THE MATTER OF THE APPLICATION OF ASSOCIATED TELEPHONE COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUANCE OF THREE HUNDRED THOUSAND DOLLARS COLLATERAL TRUST SEVEN PER CENT BONDS.

Application No. 7413.

Decided January 20, 1922.

SINKING FUND—FAIR RETURN.—Under the policy of the Commission, frequently announced, any earnings used for sinking fund payments must come out of the allowance for a fair return.

O'Melveny, Milliken and Tuller, by *Stuart O'Melveny*, for Applicant.

BY THE COMMISSION.

OPINION.

Associated Telephone Company asks permission to sell \$300,000 of collateral trust 7 per cent 10-year bonds due February 1, 1932, and to secure the payment of such bonds by the issue and deposit of \$400,000 of its 6 per cent mortgage and collateral trust bonds due August 1, 1950. Applicant also asks authority to execute an agreement defining the terms and conditions under which the collateral trust bonds will be issued and to use the proceeds from the sale of the collateral trust bonds to purchase new central office apparatus, telephone equipment and appliances.

A hearing was had on this application on December 30, 1921, before Examiner Williams at Los Angeles.

The Railroad Commission by Decision No. 8685, dated March 3, 1921, authorized Associated Telephone Company to issue not exceeding \$611,326 par value of common stock and not exceeding \$829,200 face value of its 6 per cent mortgage and collateral trust bonds due August 1, 1950. All of the bonds and \$511,326 of the stock were to be used for the purpose of refunding the outstanding bonds and stock, and certain outstanding coupons and claims against the Union Home Telephone and Telegraph Corporation. Stock in the amount of \$100,000 par value applicant was authorized to sell at not less than \$80 per share. It appears from the record in this proceeding that all but \$59,000 of the Union Home Telephone and Telegraph Corporation bonds have been exchanged for bonds of Associated Telephone Company.

Since October 1, 1920, applicant has operated under lease the properties of the Union Home Telephone and Telegraph Corporation, of the Long Beach Home Telephone and Telegraph Company and of the San Bernardino Home Telephone and Telegraph Company. The testimony shows that on October 1, 1920, there were in service at Long Beach 9072 telephones and at San Bernardino 3212 telephones,

making a total of 12,284. On November 30, 1921, there were in service at Long Beach 11,352 telephones and at San Bernardino 3583, making a total of 14,935 telephones, or a net increase of 2651 telephones. Of the increase 2280 were in Long Beach. George B. Ellis, applicant's president, estimates (assuming the growth of business to continue as during the past year) that by July 31, 1922, applicant will have 12,500 telephones at Long Beach and 3800 at San Bernardino, making a total of 16,300 telephones in use. The testimony of George B. Ellis further shows that the rapid growth of business at Long Beach necessitates larger quarters at applicant's main central office, that a building is now being constructed for that purpose and that arrangements are being made for new central office equipment. The company has entered into an agreement with the Automatic Electric Company of Chicago for central office equipment, the net cost of which installed is reported at \$337,000. The new equipment is said to provide facilities in the central office for about 25 per cent in excess of the present facilities.

It appears from applicant's Exhibit "3" that the total cost of the new equipment will be \$370,000. The Automatic Electric Company will allow \$33,000 for its present two manual switchboards now in service at Long Beach, leaving a net cost of \$337,000. Applicant agrees to pay the \$337,000 in installments as follows:

- (a) \$4,000 in cash upon the execution of the agreement;
- (b) \$6,000 in cash when substantial shipments (not less than \$2,000) of dials have been made;
- (c) \$250,000 in cash upon receipt at Long Beach of materials and equipment provided in contract specification No. 660, in the amount of not less than \$275,000 according to invoices and agreed prices;
- (d) \$27,000 in cash upon the final completion of the job and the turning over of the two automatic exchanges and acceptance;
- (e) Balance in promissory notes as follows:
 - (1) Three notes of \$10,000 each due respectively on or before one, two and three years after date and one note for whatever balance may remain, payable on or before four years after date. The notes are to be dated as of the date of the acceptance of the exchanges and bear interest at the rate of 6½ per cent per annum.

It is not possible for the Commission in this proceeding to authorize the issue of the notes for the reason that applicant has not incorporated such issue in this application. If applicant finally concludes to issue the notes under the terms set forth, it should file with the Commission a new application asking permission to issue such notes.

In this proceeding, applicant asks authority to issue and sell at 93½ and accrued interest \$300,000 of 10-year 7 per cent collateral trust bonds and use the proceeds to pay in part for the new central office equipment and appliances to which reference has been made.

Applicant has not as yet filed a copy of the agreement under which the collateral trust bonds will be issued. The record, however, shows

that the bonds are to be dated February 1, 1922, and are to mature February 1, 1932. They will be callable at 105 and accrued interest. The company covenants to pay the normal federal income tax to the extent of 2 per cent and to establish a graduated sinking fund sufficient to retire the bonds within 10 years. The holders of the collateral trust bonds are to be given the privilege of exchanging them for applicant's mortgage and collateral 6 per cent bonds on the basis of 95. The Commission will not at this time authorize the issue of applicant's mortgage and collateral trust bonds, for the purpose of refunding the collateral trust bonds on the basis suggested.

Under the policy of the Commission, frequently announced and to which it adheres, any earnings used for sinking fund payments must come out of the allowance for a fair return.

The Commission will not make an order authorizing the execution of an agreement securing the payment of the collateral trust bonds until a complete copy of such agreement, satisfactory in form, has been filed with the Commission. The agreement should contain a condition permitting the trustee to return to applicant a proper proportion of the bonds deposited as collateral if, as and when, applicant pays any of the collateral trust bonds.

ORDER.

Associated Telephone Company having applied to the Railroad Commission for permission to issue bonds and execute a collateral trust agreement, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of bonds referred to in this application is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Associated Telephone Company be and it is hereby authorized to issue and sell, for cash, at not less than 93 $\frac{1}{4}$ per cent of their face value and accrued interest, \$300,000 of 10-year 7 per cent collateral trust bonds and issue and deposit as collateral to secure the payment of such collateral trust bonds not exceeding \$400,000 of its mortgage and collateral trust 6 per cent bonds due August 1, 1950.

The authority herein granted is subject to further conditions as follows:

1. As collateral trust bonds are being paid by applicant, a proper proportion of applicant's mortgage and collateral trust bonds deposited as collateral shall be returned to applicant's treasury and thereafter not disposed of in any manner whatsoever, except as authorized by the Railroad Commission.

2. The proceeds realized from the sale of the bonds herein authorized shall be used by applicant for the purpose of paying for the automatic telephone equipment and appliances described in this application and more specifically in applicant's Exhibit No. "3."

3. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee amounts to \$300, nor until this Commission has by supplemental order authorized applicant to execute an agreement to secure the payment of the collateral trust bonds.

4. The authority herein granted will apply only to such collateral trust bonds as may be issued, sold and delivered on or before August 1, 1922.

Dated at San Francisco, California, this twentieth day of January, 1922.

DECISION No. 10008.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA-OREGON POWER COMPANY, A CORPORATION, FOR AN ORDER READJUSTING AND FIXING ITS RATES AND CHARGES FOR WATER SERVICE IN THE TOWN OF DUNSMUIR AND VICINITY.

Application No. 6441.

Decided January 20, 1922.

Morrison, Dunne and Brobeck, by *E. S. Taylor*; *Tapscott and Tapscott*, by *James R. Tapscott*; *Taylor and Tchle*, by *R. S. Taylor*, for Applicant.

Henry McGuinness, for Board of Trustees of Town of Dunsmuir.

A. L. Shoupe, for The Labor Council.

BY THE COMMISSION.

OPINION.

The California-Oregon Power Company, a corporation, applicant in the above entitled matter, is a public utility engaged in the business of generating and selling electric energy in Southern Oregon and Northern California and in the operation of water systems supplying water for domestic, commercial and industrial purposes in the town of Klamath Falls, Oregon, and the town of Dunsmuir and vicinity, Siskiyou County, California. Applicant alleges that the present rates charged consumers in the town of Dunsmuir and vicinity have been in effect since July 1, 1914, and have never been fixed by the Commission; that during the last three years the cost of labor, materials and supplies has greatly increased; and that applicant is not earning a fair return upon its investment. The Commission is therefore asked to establish rates which will yield an adequate return for the service rendered.

Public hearings in the matter were held before Examiner Westover in Dunsmuir and in San Francisco, and all interested parties were given an opportunity to be present and to be heard.

The present water plant is a consolidation of two systems which originally served the town. The Mossbrae Falls Water and Power Company, hereinafter referred to as the "Van Fossen System," was first operated in 1888, being acquired some years later by F. B. Van Fossen. The principal source of supply for this system was from springs located near the Shasta Springs Resort, about three miles from Dunsmuir, being delivered by means of a flume and pipe line. In 1910 this system was sold to J. P. and J. W. Churchill and A. J. Rosborough for a sum stated to have been \$13,000.

The Dunsmuir Water, Light and Power Company was organized about 1903 and during that year constructed a water system with a diversion dam on Bear Creek from which water was transmitted by gravity through an 8-inch vitrified clay pipe line to a concrete reservoir in Dunsmuir. In 1906 this company installed an 8 and 10-inch riveted steel transmission main, now known as the "low line," bringing water from a spring located near the springs of the Van Fossen System.

Shortly after the acquisition of the Van Fossen System, the new owners transferred their interests therein to the Dunsmuir Water, Light and Power Company, of which concern they were also part owners, and the two water systems were then consolidated under one management and ownership.

In 1912 The California-Oregon Power Company purchased the consolidated water system through the agency of the Siskiyou Electric Power and Light Company. After acquiring the properties, The California-Oregon Power Company replaced the flume on the Van Fossen System with a 12-inch riveted steel pipe line, which is now known as the "high line."

At present the system receives its principal supply of water from the springs, three of which supply the high line and have a combined capacity of approximately eight and two-tenths cubic feet of water per second. The low line spring supplies about one and seven-tenths cubic feet per second. In addition to these springs there is the Bear Creek line which has a capacity of approximately one cubic foot of water per second. This line was not in use at the time of the hearings. The total quantity of water produced by the four springs and the Bear Creek supply is approximately ten and nine-tenths cubic feet per second, or 7.04 million gallons per day.

The concrete reservoir has a storage capacity of 392,600 gallons, and the distribution system consists of approximately 37,380 feet of standard

screw pipe and casing varying from one inch to eight inches in diameter, the most of which, however, is from four to eight inches in size. All transmission and distribution of water, with the exception of one small booster pump is by gravity.

There are no meters on the system, all charges being at flat rates. On December 31, 1920, there were 600 consumers and on November 1, 1921, there were 671.

The present rates for ordinary domestic or household use range upward from \$1.50 per month for a residence occupied by one family. This amount includes toilet and bath and allows for the irrigation of 7500 square feet of lawn or garden.

On behalf of the applicant Mr. R. E. Child, civil and hydraulic engineer, submitted a report and appraisal of the water system showing an estimated original cost, as of January 31, 1921, of the physical properties, including such intangibles as organization expenses and working capital, of \$84,284, and a depreciation annuity of \$1,607 calculated by the sinking fund method at 6 per cent. In addition to this Mr. Child estimated the cost of the water rights at \$38,333, making a total estimated original cost of \$122,617.

Mr. M. R. MacKall, one of the Commission's hydraulic engineers, submitted a report in which the estimated original cost of the used and useful physical properties, exclusive of organization expenses, working capital, and cost of water rights, as of March 1, 1921, was shown to be \$66,076, and the depreciation annuity \$1,022, computed by the sinking fund method at 6 per cent. This report also recommended the sum of \$6,454 as a reasonable allowance for the annual maintenance and operating expense for the immediate future.

Mr. F. B. Phelps, auditor for the applicant, submitted a report in which the estimated maintenance and operating expense, exclusive of depreciation, for the year ending December 31, 1921, was shown as \$13,019. This estimate was based upon costs for the first seven months of the year.

The most important differences in the estimated original costs of the physical properties, as shown by Mr. Child and Mr. MacKall, are due to the exclusion by the latter of the Bear Creek diversion dam and transmission line as nonoperative, and a deduction of seventy-five per cent of the cost of the reservoir on the ground that it does not properly function with the distribution system.

While it is apparent that this reservoir has not been utilized to its full capacity in the past, nevertheless such a storage reservoir is of vital importance, for fire protection and emergency purposes, and is a necessary adjunct to the system. For these reasons the original

cost of the entire structure is allowed upon the condition that it be so connected with the distribution system as to provide automatically regulated service up to its reasonable maximum capacity.

The evidence clearly indicates, however, that with the large volume of water developed by the springs, the Bear Creek diversion dam and transmission line perform no necessary or useful service to the system at present.

Considerable testimony was introduced concerning the estimated cost and so-called "values" of the water rights owned or controlled by the applicant. Mr. F. B. Van Fossen, former owner of a part of the system, estimated that the water rights of the three springs supplying the high line were worth \$2,000 in 1912, and that the water rights of the low line spring were worth not to exceed \$2,000, making a total of \$4,000 for the four springs. Mr. Child, on behalf of the applicant, estimated the cost of the water rights as of 1912 at \$38,333, which includes one second-foot of water in Bear Creek, not embraced in the estimate of Mr. Van Fossen. This estimate is derived by taking the depreciated value in 1911 of the physical properties of the Van Fossen System at the arbitrary figure of \$1,500 and deducting this amount from the purchase price of \$13,000 for the entire property, to which was added \$540 as the estimated "value" of free water to be delivered to the former owners of the system. This method results in an estimated cost of water rights of slightly over \$12,000, which Mr. Child assumes was the amount paid for 3.75 second-feet of water and represents a cost of approximately \$3,200 per second-foot. This estimated cost was then applied to the present yield of all four springs, or 9.9 second-feet, giving \$31,631, to which was added \$3,217 for one second-foot of water developed at Bear Creek. The final addition of 10 per cent for overhead charges gives a grand total of \$38,333.

Mr. C. E. Blee, a civil engineer and employee of the applicant, submitted an appraisal of the water rights based upon his estimate of \$54,263 as the depreciated value of the system at the date of purchase by the applicant in 1912, deducted from the reported purchase price of \$89,300, leaving a difference of \$35,037 as the cost of the water rights.

The total quantity of water claimed by applicant, including the Bear Creek supply, is 10.9 second-feet, which is equivalent to 7.04 million gallons daily. The 1920 census gives the population of Dunsmuir at 2528 and would indicate a per capita use of water amounting to 2687 gallons daily. Excluding the Bear Creek diversion, the per capita used would amount to 2531 gallons daily. Both of these quantities indicate an unrestricted and wasteful use of water, and it is apparent that it would be unreasonable to compel the consumers to pay a full return

upon the costs of water rights covering a supply sufficient to care for the requirements of a much larger population than is found at Dunsmuir.

It is not necessary at this time to pass upon the rights of diversion from Bear Creek as it necessarily follows that such rights would be excluded as nonoperative along with the other Bear Creek properties.

It is evident that the right to divert water from the springs supplying this system was secured by actual expenditures of money by applicant or its predecessors, also that the total of such expenditures lies somewhere between \$4,000 and \$38,333. An allowance will, therefore, be made in the rate base herein established to cover reasonable expenditures incurred in the acquisition of such rights of diversion.

Analysis of the estimate of operating expense submitted by the applicant indicates that a very considerable portion of the cost is made up by charging to this water system a large proportion of the expenses of the various offices and departments of The California-Oregon Power Company located outside of the town of Dunsmuir, and it is evident that a localized management of the system would result in economies in operation.

The evidence shows that since the preparation of the report of the Commission's engineer the tax rate has been increased so that this item in his report should be increased.

After a careful consideration of all the evidence submitted, it appears that \$7,000 is a reasonable annual maintenance and operating expense; that a fair rate base for the purpose of this proceeding is \$80,000; and that \$1,100 should be allowed for depreciation annuity. The annual charges based upon the foregoing items are then as follows:

Return at 8 per cent on \$80,000.....	\$6,400 00
Depreciation annuity.....	1,100 00
Maintenance and operating expense.....	7,000 00
Total annual charges.....	\$14,500 00

The revenues for 1920 were \$12,054 and the estimated revenues for the year 1921, based upon available information, will very closely approximate \$13,490.

It is apparent that the applicant is entitled to an increase in rates, and the schedule established in the following order is designed to produce approximately the annual charges, at the same time eliminating any discrimination which may have heretofore existed, and to establish rates which are fair and equitable for the service rendered.

ORDER.

The California-Oregon Power Company, a corporation, having made application to the Railroad Commission as entitled above, public hearings having been held thereon and the matter having been submitted:

It is hereby found as a fact that the rates now charged by The California-Oregon Power Company for water supplied to its consumers in Dunsmuir and vicinity are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates to be charged for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the opinion which precedes this order:

It is hereby ordered, by the Railroad Commission of the State of California that The California-Oregon Power Company be and it is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order, the following schedule of rates for water delivered to its consumers in Dunsmuir and vicinity, such rates to be effective for water supplied subsequent to January 31, 1922.

RATE SCHEDULE.

1. Residences, apartments, flats and tenements of three rooms or less occupied by a single family.....	\$1 40
For each additional room.....	10
Additional for each flush toilet or bathtub.....	10
For each private garage and car automobile.....	15
For each horse or cow.....	25
2. Sprinkling or irrigation per square yard of surface actually irrigated:	
Lawns.....	004
Gardens.....	0025
Orchards.....	0020
3. Offices, for each room with water tap except doctors' and dentists' offices.....	25
4. Doctors' and dentists' offices, not exceeding two rooms with water tap..	75
For each additional room with water tap.....	25
5. Drug stores.....	1 75
6. Photograph galleries.....	1 75
7. Barber shops, one chair.....	1 25
For each additional chair.....	25
8. Soda fountains, soft drink establishments and ice cream parlors either alone or in connection with other business.....	1 75
9. Bakeries and butcher shops.....	2 00
10. Stores, shops, theaters and churches.....	2 00
11. Public garages.....	2 50
12. Rooming houses, less than ten rooms.....	2 00
Rooming houses from 10 to 15 rooms.....	2 50
13. Public halls, lodge or club rooms.....	1 50
14. Bathing establishments, either alone or in connection with barber shops, for one tub.....	75
For each additional tub.....	50
15. Bathtubs in rooming houses.....	20
16. Toilets for public use.....	25
17. Toilets in rooming houses, stores and buildings not otherwise provided for.....	20
18. Public drinking fountains in any place.....	50

19. Water motors for household use-----	\$0 25
20. Water cooled refrigerators, for each month in use:	
Drip type-----	25
Coil type-----	50
21. Building work:	
For mortar and to dampen brick, per 1000 brick-----	15
For cement work and plastering, for each barrel of cement or lime used-----	10
22. Water for all purposes or establishments not herein specified including hotels, rooming houses, laundries and restaurants, charged for at meter rates.	
23. Meters may be installed at the request of any consumer or at the option of the utility.	

PUBLIC USE.

Fire Hydrants:	
1. 2-inch and 2½-inch, each per month-----	\$0 50
4-inch one outlet, each per month-----	1 00
4-inch two outlets, each per month-----	1 10
6-inch two outlets, each per month-----	1 25
2. Sprinkling roads and streets by the town or county measured by wagon, or truck, tank capacity, per 100 cubic feet-----	05
3. All other municipal use of water at the regular meter rate.	

MONTHLY MINIMUM CHARGES.

Metered use:	
For ½-inch meters-----	\$1 00
For ¾-inch meters-----	1 25
For 1-inch meters-----	1 50
For 1½-inch meters-----	2 00
For 2-inch meters-----	3 00
For 3-inch meters-----	4 00

MONTHLY QUANTITY RATES.

First 1000 cubic feet, per 100 cubic feet-----	\$0 15
For the next 2000 cubic feet, per 100 cubic feet-----	13
All use over 3000 cubic feet, per 100 cubic feet-----	10

It is hereby further ordered, that the collection of the rates set out in the schedule herein authorized is expressly conditioned upon the installation by The California-Oregon Power Company of such necessary regulating, or balancing valve, or such other connection at the Bear Creek reservoir as will provide automatic and continuous service to the distribution system; this improvement to be installed and in operation in a manner satisfactory to this Commission as soon as conditions will permit, but in no case later than March 1, 1922.

It is hereby further ordered, that The California-Oregon Power Company be and it is hereby directed to file with this Commission within thirty (30) days from the date of this order rules and regulations to govern relations with its consumers, such rules and regulations to become effective upon their acceptance by this Commission.

Dated at San Francisco, California, this twentieth day of January, 1922.

DECISION No. 16009.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA-OREGON
POWER COMPANY FOR AN ORDER OF THE RAILROAD COM-
MISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE
ISSUANCE AND SALE OF BONDS.

Application No. 7488.

Decided January 21, 1922.

Morrison, Dunne and Brobeck, by *H. H. Phleger*, for Applicant.

BENEDICT, *Commissioner*.

OPINION.

In the above entitled matter The California-Oregon Power Company asks permission to issue and sell at not less than 88 per cent of their face value and accrued interest \$1,000,000 of its first and refunding mortgage sinking fund 6 per cent 20-year gold bonds, Series "B," or a like amount of temporary certificates pending the delivery of the permanent bonds, for the purpose of securing funds to acquire and construct additional properties.

Under the authority granted by the Commission in Decision No. 9190, dated June 30, 1921, in Application No. 6574, applicant executed its first and refunding mortgage dated February 1, 1921, to secure the payment of bonds in the amount of not exceeding \$10,000,000. The record in this proceeding shows that applicant has issued \$2,000,000 of the bonds and that such bonds bear interest at the rate of $7\frac{1}{2}$ per cent per annum and are all outstanding. In addition to the \$2,000,000 of $7\frac{1}{2}$ per cent bonds outstanding, applicant as of November 30, 1921, had outstanding underlying bonds in the amount of \$966,000.

As of November 30, 1921, applicant reports \$4,441,100 of common and \$2,220,000 of preferred stock, or a total of \$6,661,100 of stock outstanding.

As of the same date, applicant reports its current assets including prepaid expenses at \$1,281,952.29 and its current liabilities, including accruals, at \$296,084. The current assets include cash in the amount of \$490,535.45, a considerable portion of which was obtained from the sale of bonds heretofore authorized by the Commission and which from time to time will be withdrawn for the purpose of financing new construction. The total value of the properties is reported by applicant at \$7,693,070.84.

It appears from the testimony that applicant has entered into an agreement to sell electric energy at wholesale to the Mountain States Power Company, whose headquarters are at Eugene, Oregon. John D. McKee, applicant's president, testified that the net earnings of the

company should increase by about \$100,000 per annum because of the sale of electrical energy under the agreement, and the increasing demand for electrical energy throughout the territory in which applicant now operates. To supply the Mountain States Power Company with electrical energy, applicant will have to construct a transmission line of about 115 miles in length. The cost of this line is estimated at \$750,000. It is for the purpose of providing itself with funds to acquire the necessary right of way, to construct the transmission line and other additions and betterments to its plants and properties, that applicant asks permission to issue and sell \$1,000,000 of bonds. Applicant has not filed with the Commission a statement showing in detail the cost of the properties which it intends to finance through the issue of the \$1,000,000 of bonds. It will deposit the proceeds obtained from the sale of the bonds in a special fund and expend them only for such purposes as the Railroad Commission may hereafter authorize.

I herewith submit the following form of order:

ORDER.

The California-Oregon Power Company having applied to the Railroad Commission for permission to issue and sell \$1,000,000 face value of bonds, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue of bonds is reasonably required by applicant and that the proceeds obtained from the sale of the bonds should be deposited in a special fund and expended only for such purposes as the Railroad Commission may hereafter authorize;

It is hereby ordered, that The California-Oregon Power Company be and it is hereby authorized to issue and sell, at not less than 88 per cent of their face value and accrued interest, \$1,000,000 of its first and refunding mortgage sinking fund 6 per cent 20-year gold bonds, Series "B," or a like amount of temporary certificates pending the delivery of the permanent bonds.

The authority herein granted is subject to the following conditions:

1. All proceeds realized from the sale of the bonds, or temporary certificates, other than the accrued interest, shall be placed in a special deposit with a bank or banks or trust company or companies, and expended only for such purposes as the Railroad Commission may hereafter authorize by a supplemental order or orders.
2. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee amounts to \$1,000.
3. The California-Oregon Power Company shall keep such record of the issue, sale and delivery of the bonds, or temporary certificates

herein authorized, and of the disposition of the proceeds, as will enable applicant to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted will apply only to such bonds, or temporary certificates, as may be issued, sold and delivered on or before August 1, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-first day of January, 1922.

DECISION No. 10010.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN POWER
COMPANY OF CALIFORNIA TO SELL PREFERRED STOCK.

Application No. 7480.

Decided January 21, 1922.

Guy C. Earl and Chaffee E. Hall, for Applicant.

LOVELAND, Commissioner.

OPINION.

In this application, as amended at the hearing, Great Western Power Company of California asks permission to issue and sell at not less than 90 per cent of par value \$1,232,100 of its 7 per cent cumulative preferred stock, and to use the proceeds to reimburse its treasury because of earnings expended for extensions, additions and betterments to its plants and properties.

Applicant reports that it expended for its Caribou development from June 1, 1919, to September 1, 1921, and for the 165,000 volt transmission line from June 1, 1919, to September 1, 1921, and for other additions and betterments from June 1, 1919, to July 1, 1921, the sum of \$16,616,424.59 distributed as follows:

For the Caribou development.....	\$12,815,530 61
For the 165,000 volt transmission line.....	2,581,252 95
For other additions and betterments.....	1,581,782 44
Total.....	\$16,978,566 00
Less notes for materials.....	362,141 41
Total.....	\$16,616,424 59

The record shows that \$15,507,500 of this amount has been obtained from the sale of securities, the issue of which the Railroad Commission authorized, leaving a balance of \$1,108,924.59 that has not been paid or provided for by the issue of stock or bonds and for which applicant now seeks reimbursement by the issue of its preferred stock.

I herewith submit the following form of order:

ORDER.

Great Western Power Company of California having applied to the Railroad Commission for permission to issue and sell stock, a public hearing having been held and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified herein and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Great Western Power Company of California be and it is hereby authorized to issue and sell 12,321 shares (\$1,232,100 par value) of its 7 per cent cumulative preferred stock and to use the proceeds to reimburse its treasury and to finance in part the construction expenditures reported in this application.

The authority herein granted is subject to the following conditions:

1. The stock herein authorized shall be sold for cash on or before December 31, 1922, at not less than \$90 per share net to the company.
2. Applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-first day of January, 1922.

DECISION No. 10013.

IN THE MATTER OF THE APPLICATION OF SANTA MARIA GAS COMPANY FOR AUTHORITY TO INCREASE RATES.

Application No. 6442.

Decided January 21, 1922.

BY THE COMMISSION.

ORDER ON SECOND PETITION FOR REHEARING.

City of San Luis Obispo having filed a petition, on January 13, 1922, for a rehearing on this Commission's Decision No. 9914, dated December 23, 1921, alleging therein that said decision and schedule of rates prescribed therein impairs the obligation of a contract and stipulation between Santa Maria Gas Company and the city of San Luis Obispo, in that said rates will provide to Santa Maria Gas Company a return contrary to said stipulation and contract; that said schedule of rates is based upon and purports to provide Santa Maria Gas Company a return on the purchase price of property purchased from Midland Counties Public Service Corporation, contrary to said stipulation and contract, and will compel said city and its inhabitants to pay to Santa Maria Gas Company a return on an investment not made by applicant and on investment not used and useful in the service of the public, and on investment obtained through the proceeds of illegal and extortionate rates.

The Commission having given careful consideration to the points raised by petitioner for rehearing and finding that its allegations are not borne out by facts and that the petition should, therefore, be denied;

It is hereby ordered, that the petition of the city of San Luis Obispo for rehearing in Application No. 6442 be and the same is hereby denied.

Dated at San Francisco, California, this twenty-first day of January, 1922.

DECISION No. 10014.

IN THE MATTER OF THE APPLICATION OF SIERRA AND SAN FRANCISCO POWER COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE AND SELL ONE MILLION DOLLARS PAR VALUE OF ITS FIRST MORTGAGE FIVE PER CENT BONDS DUE AUGUST 1, 1949.

Application No. 7452.

Decided January 21, 1922.

Chickering and Gregory, by Warren Gregory, and W. C. Fox, for Applicant.

BENEDICT, Commissioner.

OPINION.

Sierra and San Francisco Power Company asks permission to issue and sell at not less than 80 per cent of their face value and accrued

interest \$1,000,000 of its first mortgage 5 per cent bonds due August 1, 1949, and to use the proceeds to finance expenditures for extensions, additions and betterments to its plants and properties made subsequent to January 1, 1920, by its lessee, Pacific Gas and Electric Company.

By Decision No. 7032, dated January 17, 1920, as amended, applicant was authorized to lease its properties to Pacific Gas and Electric Company for a term of 15 years, starting January 1, 1920. During this period, Pacific Gas and Electric Company agrees to properly maintain and operate the properties, to pay the cost of such maintenance and operation, to pay all taxes and governmental charges, to pay annually \$30,000 into a fund to amortize bond discount and expense—this amount to be increased if additional bonds are issued—to pay into a special depreciation fund an amount equal to 2 per cent of the gross revenues obtained from the leased properties, to pay interest on the outstanding bonds, and to pay as rental \$50,000 during the first and second years of the lease, \$100,000 during the third year, and \$150,000 annually during the remaining years of the lease. Pacific Gas and Electric Company further agrees to build all necessary extensions, additions and betterments to applicant's properties. Expenditures made by Pacific Gas and Electric Company for extensions, additions and betterments are carried in a special capital expenditure account and are to be financed from time to time by Sierra and San Francisco Power Company through the sale of its bonds. In the event that applicant is unable to sell its bonds, it is agreed that they will be delivered to Pacific Gas and Electric Company and held as collateral securities for its advances.

A. F. Hockenbeamer, second vice president and treasurer of Pacific Gas and Electric Company, testified that subsequent to January 1, 1920, and prior to September 30, 1921, Pacific Gas and Electric Company had expended \$2,323,534 for extensions, additions and betterments to applicant's properties, including about \$192,000 for materials and supplies. Of this amount \$52,500 has been reimbursed through credits to the bond discount reserve, \$103,533 through the special depreciation reserve and \$800,000 obtained from the sale of \$1,000,000 of bonds issued under authority granted by the Railroad Commission in Decision No. 5376, dated May 2, 1918, as amended by Decision No. 9173, dated June 28, 1921. Deducting these credits leaves a reported balance of \$1,367,491, for which Pacific Gas and Electric Company has not been reimbursed.

Applicant has filed as Exhibit "1" a statement showing in some detail capital expenditures for extensions, additions and betterments to its properties during 1920 and 1921 and aggregating \$1,251,567. Testi-

mony herein shows that this amount does not include all of the expenditures made during the period on applicant's property by Pacific Gas and Electric Company, but only such an amount as is necessary to justify the issue of the bonds herein applied for.

I herewith submit the following form of order:

ORDER.

Sierra and San Francisco Power Company having applied to the Railroad Commission for permission to issue and sell bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified herein, and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Sierra and San Francisco Power Company be and it is hereby authorized to issue and sell on or before June 30, 1922, at not less than 80 per cent of their face value, plus accrued interest, \$1,000,000 of its first mortgage 5 per cent bonds due August 1, 1949, to finance in part the construction expenditures described in applicant's Exhibit No. 1, or deposit the bonds to secure the payment of advances by Pacific Gas and Electric Company as provided in the lease of January 1, 1920.

The authority herein granted is subject to further conditions as follows:

1. Applicant shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will not become effective until applicant has paid the fee prescribed by the Public Utilities Act, which fee is \$1,000.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-first day of January, 1922.

DECISION No. 10017.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AN ORDER GRANTING PERMISSION TO INCREASE RATES FOR THE TRANSPORTATION OF PASSENGERS BETWEEN POINTS ON THE PACIFIC ELECTRIC RAILWAY IN THE STATE OF CALIFORNIA.

Application No. 3791.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AN ORDER GRANTING PERMISSION TO INCREASE RATES FOR THE TRANSPORTATION OF PASSENGERS USING LOCAL SERVICE BETWEEN POINTS ON THE PACIFIC ELECTRIC RAILWAY IN THE CITY OF LOS ANGELES, CALIFORNIA.

Application No. 4403.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AN ORDER GRANTING PERMISSION TO INCREASE RATES FOR THE TRANSPORTATION OF PASSENGERS BETWEEN POINTS ON THE PACIFIC ELECTRIC RAILWAY IN THE FOLLOWING CITIES, COMMUNITIES AND TERRITORIES IN THE COUNTIES OF LOS ANGELES, ORANGE, RIVERSIDE AND SAN BERNARDINO, CALIFORNIA, TO WIT: CLAREMONT, COLTON, GLENDALE, HUNTINGTON BEACH, LONG BEACH, NEWPORT BEACH, PASADENA, POMONA, REDLANDS, REDONDO BEACH, RIVERSIDE, SAN BERNARDINO, SAN GABRIEL, SAN PEDRO-WILMINGTON, SANTA ANA, SANTA MONICA, SAWTELLE-SOLDIERS HOME, SOUTH PASADENA, UPLAND, VAN NUYS, VENICE, SANTA MONICA-OCEAN PARK-VENICE-PLAYA DEL REY, LANKERSHIM, SAN FERNANDO, SHERMAN, CULVER CITY, HERMOSA BEACH, MANHATTAN BEACH, EL SEGUNDO, GARDENA, TORRANCE, COMPTON, WATTS, SEAL BEACH, FULLERTON, WHITTIER, BREA, EL MONTE, SAN DIMAS, COVINA, LA VERNE, ONTARIO, RIALTO, ARCADIA, MONROVIA, GLENDORA, SIERRA MADRE, SAN MARINO, ALHAMBRA, AND BURBANK.

Application No. 4407.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AN ORDER GRANTING PERMISSION TO INCREASE RATES FOR THE TRANSPORTATION OF PETROLEUM AND PETROLEUM PRODUCTS, CARLOADS, CLASSIFIED FIFTH CLASS IN CURRENT WESTERN CLASSIFICATION, AS CONTAINED IN PACIFIC ELECTRIC RAILWAY COMPANY'S LOCAL, JOINT AND PROPORTIONAL FREIGHT TARIFF C. R. C. NO. 235, APPLYING BETWEEN POINTS ON LINES OF PACIFIC ELECTRIC RAILWAY COMPANY IN CALIFORNIA TO THE BASIS OF FOUR AND ONE-HALF CENTS PER HUNDRED POUNDS HIGHER THAN RATES IN EFFECT ON MAY 25, 1918, BUT NOT TO EXCEED FIFTH CLASS RATES AS INCREASED EFFECTIVE JUNE 25, 1918.

Application No. 4733.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY, A CORPORATON, FOR AN ORDER GRANTING PERMISSION TO INCREASE RATES AND TO ESTABLISH JUST AND REASONABLE RATES FOR THE TRANSPORTATION OF PERSONS AND PROPERTY BETWEEN POINTS IN THE STATE OF CALIFORNIA.

Application No. 5806.

IN THE MATTER OF THE COMMISSION'S INVESTIGATION INTO THE
ELECTRIC STREET RAILWAY SERVICE OF THE PACIFIC ELECTRIC
RAILWAY COMPANY AND LOS ANGELES RAILWAY CORPORATION
IN THE HOLLYWOOD DISTRICT OF THE CITY OF LOS ANGELES.

Case No. 1602.

THE CHAMBER OF COMMERCE OF SAN PEDRO

vs.

PACIFIC ELECTRIC RAILWAY COMPANY.

Case No. 1607.

Decided January 28, 1922.

ELECTRIC RAILROAD—COMMUTATION.—The opinion is expressed that the lowest possible rate of transportation should be provided for the regular every day commuter and the next lowest for the regular six-day rider.

COMMUTATION—FORMS OF TICKET—MILEAGE BASIS.—Three forms of commutation tickets are provided in the order designed to take care of the needs of all commuters and to be fair and equitable. All the rates are based on mileage scales.

Frank Karr and R. C. Gortner, for Pacific Electric Railway Company.

Jess E. Stephens, W. P. Mealey, Milton Bryan, H. Z. Osborne, Jr., and F. A. Lorentz, for the City of Los Angeles.

J. H. Howard, for City of Pasadena.

William Hazlett and R. V. Orbison, City Manager, for City of South Pasadena.

Arthur A. Weber, for City of Santa Monica.

Arthur A. Weber and Charles W. Lyon, for Santa Monica Bay Realty Board, Venice Chamber of Commerce, Santa Monica-Ocean Park Chamber of Commerce, Santa Monica City Club, West Los Angeles Improvement Association and Venice Merchants Association.

T. C. Gould and Grant N. Lorraine, City Manager, for City of Alhambra.

Thomas B. Reed, for City of Covina.

Frederick Baker, for City of Azusa.

H. B. Lynch, Bert B. Woodward and Wm. H. Reece, City Manager, for City of Glendale.

Clyde Woodworth, for City of El Segundo, City of Inglewood and City of Beverly Hills.

Geo. L. Hoodenppl and Bruce Mason and P. E. Hewes, City Manager, for City of Long Beach.

Geo. H. Scott, for City of Santa Ana.

Charles W. Lyon, for City of Venice.

E. O. Winburn, for City of Watts.

William Guthrie, for City of San Bernardino.

Walter P. Dunn, for City of El Monte and City of Arcadia.

Miguel Estudillo, for City of Riverside.

John P. Dunn and A. Black, for City of Monrovia.

Frank L. Perry, for cities of Manhattan Beach, Hermosa Beach and Redondo Beach.

Thomas A. Berkebile, for City of Monterey Park.

C. L. Welch, for Hollywood, and Santa Monica Boulevard Improvement Association.

Earl Crandall and G. E. Delecan, Jr., for City of Manhattan.

George R. Wickham, for City of Hermosa Beach.

W. E. Guerin, for City of Pomona.

P. A. Stanton and J. P. Transue, for City of Seal Beach.

E. P. Gregson, for Associated Jobbers of Los Angeles.

J. S. Horn, for Los Angeles Central Labor Council.

W. H. Engle, for Northwest Welfare Association.

Harold Janss and P. A. Cattern, for Northeast Los Angeles Improvement Association.

- Shannon Crandall*, for Los Angeles Chamber of Commerce and Torrance Chamber of Commerce.
- Perry G. Briney*, for Llewellyn Iron Works and the Union Tool Company of Torrance.
- W. H. Ingle*, for people of Edendale.
- Henry E. Carter*, for Wilmington Chamber of Commerce.
- Rollin L. McNitt*, for Eagle Rock Chamber of Commerce.
- I. G. Lewis and Milton Bryan*, for Chamber of Commerce of San Pedro.
- W. E. Mellinger*, for Chamber of Commerce of Hermosa Beach.
- Harlan G. Palmer and E. M. Tilden*, for Hollywood Board of Trade.
- Robert Young*, for Hollywood Chamber of Commerce.
- Howard P. Shepherd and C. L. Welch*, for Santa Monica Boulevard Improvement Association.
- O. G. Ball and A. L. Colby*, for Dayton Improvement Association.
- M. L. Garrigus*, for certain citizens of Central-South Hollywood.
- Seward Cole and Edwin O. Palmer*, for Santa Monica and Vine Boulevard Business Men's Club.
- R. J. Harwood*, for Hollywood Vermont Association.
- Anthony Pratt*, for Municipal League.
- E. C. Moore*, for Vermont Avenue and Griffith Park Improvement Association.
- H. Cline and Van M. Griffith*, for Los Angeles Park Commission.
- W. E. Sibertson*, for West Hollywood Association.
- A. A. Pratt*, for himself as patron of Pacific Electric and driver of automobile.
- H. W. Kidd and F. D. Howell*, for Motor Transit Company.
- Rollin L. McNitt*, for Pasadena-Pomona Stage Line, Pasadena-Ocean Park Stage Line, Mount Wilson Stage Line, Arrowhead Springs Company.
- S. W. Thompson*, for United Stages, Inc.
- P. Landier*, for Auto Bus Operators in San Pedro.
- A. W. Burt*, for Protestants, residents of San Antonio Heights.
- C. F. Sawyer*, for himself as a resident of Hollywood.
- A. F. Hall*, of Long Beach, *in propria persona*.
- G. O. Clark*, for West Ivanhoe Improvement Association.
- E. L. Duffy*, for Maywood Commercial Improvement Association.
- C. D. Swanner*, for Seal Beach.
- E. L. Brady and Walter L. McIntyre*, for Rose Hill Improvement Association.
- Mrs. Emma C. Newton*, for residents of Avila.
- L. V. Shepherd*, for Highland Park Chamber of Commerce.
- H. H. Wilson and Phil B. Hart*, for Florence Improvement Association.
- George H. King*, for Chamber of Commerce of Glendale; also *James W. Rhodes*, secretary.
- J. P. Transue*, for Seal Beach Chamber of Commerce.
- William Hazlett*, also representing citizens of Richardson and Atwater Station on the Glendale Line; also *Dickinson and Gillespie*, property owners, Richardson Station.
- W. P. Wolff*, for residents of Hauser Station.
- John E. Carson*, for Chamber of Commerce of Glendora.
- H. D. Anderson*, for Watts Chamber of Commerce.
- J. M. Page*, Secretary, Chamber of Commerce, Pomona.
- Frank Walton*, for Springdale, Willowbrook and Compton.
- John T. Ackley*, for Monterey Park Chamber of Commerce.
- W. T. Sterling*, for High School Teachers' Association.
- Walter Gould Lincoln*, for Baldwin Park Chamber of Commerce.
- Mr. Poor*, for Clean Government League.
- Benjamin W. Shipman*, for Wilmar Chamber of Commerce.

COMMISSION EN BANC.

FIRST SUPPLEMENTAL OPINION.

The Commission, in its Decision No. 9928, dated December 24, 1921, granted the Pacific Electric Railway Company increases in passenger fares. Among the changes authorized was the discontinuance of the 60-ride individual commutation ticket limited to 40 days from date of sale. In lieu of these 40-day tickets the applicant was authorized to

establish individual commutation tickets good for two trips daily, one in each direction, during the calendar month, and rates per mile depending upon distances.

Supplemental hearings on the applications were held at Los Angeles commencing January 24, 1922, at which time additional testimony was received. This testimony indicated that the commuters were not being satisfactorily served by the single monthly commutation ticket. This testimony indicated that the majority of the commuters on this railroad desired other forms of commutation tickets, either substituting the ticket provided for in the Commission's order or supplementing it.

During the hearings held prior to the Commission's Decision No. 9928, the testimony of witnesses, and the arguments of the city attorneys, clearly indicated that if a raise in the commutation charge was necessary the commuter would prefer calendar-month tickets with no increases in the mileage basis rather than 40-day commutation tickets at increased rates. It was estimated that the calendar-month ticket established January 1, 1922, would in effect procure practically the same sum of money as would be secured under the 40-day, 60-ride ticket at an increase of 20 per cent. The testimony of witnesses in the instant proceeding was mainly to the effect that the experiences during the month of January indicated that there was a considerable number of commuters whose needs would be better served by an undated 60-ride, 40-day limit ticket. The city attorneys, in their argument, coincided in this view, stating that this type of ticket would, in their opinion, be preferred by a large number of people even at an increased rate per mile.

The testimony also showed that the largest number of commuters travel daily except Sunday, and that a ticket at a somewhat lower rate per month than the present calendar-month ticket, allowing one round trip for each week-day during the month, would better meet their requirements.

We are of the opinion that the lowest possible rate of transportation should be provided for the regular every-day commuter, and the next lowest for the regular six-day rider.

After giving all of the testimony and the arguments and exhibits full consideration, we reach the conclusion that the original order should be supplemented in the following manner:

1. The present calendar-month dated tickets based on one round trip daily for each day in the month should be continued in effect at the present rates.
2. Individual dated monthly commutation tickets good for one round trip daily except Sunday shall be established at rates ten per cent less than the rates now in effect for the full calendar-month ticket.
3. Undated 60-ride, 40-day individual commutation tickets shall be established at the mileage rates hereinafter indicated in the order.

The latter ticket will reestablish a form of transportation in effect prior to January 1, 1922, at rates approximately 20 per cent higher than those obtaining under the old schedule. By reason of the adoption of a nondiscriminatory mileage basis it is impossible to accomplish an exact 20 per cent increase over the old rates for this form of ticket, but the rates will be as near such amount as the maintenance of the mileage schedule will permit. It may also be noted that this form of ticket will show an increase on the mileage basis of approximately 15 per cent over the present calendar-month ticket. The 60-ride ticket shall be on sale at any time, good for 40 days from date of sale, and any number of rides may be used on any one day by the purchaser, the only restriction being that the ticket shall be used by the original purchaser within the 40-day period. It is believed that this 60-ride, 40-day ticket will provide for the transportation needs of persons who have occasion to ride only five days per week, and for that reason no additional five-day commutation ticket has been established.

The three forms of commutation tickets set forth in the order will take care of the needs of all commuters and be fair and equitable. All of the newly established rates are based on the mileage scales set forth in the order. In the opinion of the Commission, these commutation rates should take effect on February 1, 1922, and the Pacific Electric is hereby authorized to use the present form of commutation tickets, appropriately marked or stamped to indicate that the books will be good as provided in the order during the month of February or until new forms of tickets and new tariffs are distributed to the agents of the company. The Pacific Electric is further authorized to issue such emergency supplements to its tariffs as may be necessary.

FIRST SUPPLEMENTAL ORDER.

Supplemental public hearings having been held in the above numbered proceedings, and basing the order on the preceding opinion, the Commission hereby modifies its order as set forth in Decision No. 9928, dated December 24, 1921, in the following particulars:

The Pacific Electric Railway Company is hereby authorized to publish individual calendar-month commutation tickets good for one round trip daily, except Sunday, at rates 10 per cent less than the full calendar-month rates.

It is further ordered, that the Pacific Electric Railway Company be authorized to publish 60-ride, individual commutation tickets, good for transportation when presented by original purchaser and within 40 days from date of sale, on the following mileage basis:

From 1 to 10 miles	-----	1.38 cents per mile
From 11 to 15 miles	-----	1.242 cents per mile
From 16 to 20 miles	-----	1.104 cents per mile
Over 20 miles	-----	1.035 cents per mile

All fares shall be constructed on actual mileage, except in communities where it is necessary to zone certain terminal points.

In computing and applying all increased fares authorized herein, fractions of a half cent or over will be increased to the next whole cent; fractions are to be disregarded when less than one-half cent.

In all other respects the original order remains in full force and effect.

The Commission reserves the right to make such further orders in this proceeding relating to service and rates as may appear just and reasonable.

Dated at Los Angeles, California, this twenty-eight day of January, 1922.

DECISION No. 10019.

IN THE MATTER OF THE APPLICATION OF THE ST. HELENA WATER COMPANY, A CORPORATION, FOR AUTHORITY TO INCREASE RATES.

Application No. 6957.

Decided January 30, 1922.

WATER UTILITY—RATES—FULL RETURN.—It is held in this case that rates which would produce a full return would place too great a burden upon the consumers. Rates fixed are designed to do substantial justice to the consumer and to the utility.

A. Kempkey, for Applicant.

D. Gertzen, for City of St. Helena.

BY THE COMMISSION.

OPINION.

The St. Helena Water Company, applicant herein, engaged in the business of supplying water for domestic and industrial purposes to approximately 420 consumers in St. Helena, Napa County, asks for authority to increase rates, alleging that its present revenues are not sufficient to cover maintenance and operating expense, depreciation, and a reasonable return upon the investment.

A public hearing in the matter was held at St. Helena, before Examiner Satterwhite, of which all interested parties were notified and given an opportunity to be present and to be heard.

The water supply for this plant is obtained by diversion from York Creek into two impounding reservoirs having a combined capacity of fifty million gallons. From the lower reservoir the supply is conveyed by gravity through a 10- and 8-inch riveted steel transmission line into the distribution system, which consists of approximately 45,000 feet of pipe ranging in size from two to eight inches in diameter. The system is entirely metered.

The present rates charged by applicant are as follows:

From 0 to 3000 gallons, per 1000 gallons	\$0 33½
From 3000 to 50,000 gallons, per 1000 gallons	0 25
From 50,000 to 100,000 gallons, per 1000 gallons	0 20
Over 100,000 gallons, per 1000 gallons	0 15
Monthly minimum charge	1 00

Mr. A. Kempkey, representing the applicant, presented an appraisal setting forth an estimated original cost of the property amounting to \$103,905.

Mr. D. H. Harroun, one of the Commission's hydraulic engineers, submitted a report of an investigation of the system wherein the estimated original cost was shown as \$98,857, a depreciation annuity computed by the sinking fund method of \$456, and an estimate of reasonable annual maintenance and operating expense amounting to \$4,496. The figures presented by the Commission's engineer are reasonable and will be used for the purpose of this proceeding.

Based upon the foregoing items the annual charges are as follows:

Return at 8 per cent upon \$98,857	\$7,909 00
Depreciation annuity	456 00
Maintenance and operating expense	4,496 00
Total	\$12,861 00

The revenues received from the sale of water for the year 1920 were \$8,418, and it appears that no material increase in revenues can be expected in the immediate future. It is evident, therefore, that the utility is entitled to an increase in rates, but it is also apparent that an increase, which at this time would result in revenues sufficient to pay a full return upon the estimated original cost of the system, would place too great a burden upon the consumers. The schedule of rates fixed in the accompanying order is therefore designed to do substantial justice to both the consumer and the utility.

ORDER.

The St. Helena Water Company, having made application for an increase in rates, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that the rates now charged by The St. Helena Water Company for water delivered to its consumers are unjust and unreasonable, in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that The St. Helena Water Company be and the same is hereby authorized and directed to file with this Commission, within twenty (20) days from the date of this order, the following schedule of rates to be charged for water delivered to its consumers in St. Helena, such rates to be effective for all water delivered subsequent to February 28, 1922:

Schedule of Meter Rates.

Minimum monthly charges:

For $\frac{1}{2}$ -inch meter	\$1 25
For $\frac{3}{4}$ -inch meter	1 50
For 1 -inch meter	2 00
For 1 $\frac{1}{2}$ -inch meter	2 50
For 2 -inch meter	3 00
For 3 -inch meter	4 00
For 4 -inch meter	5 00

Monthly meter rates:

From 0 to 10,000 cubic feet, per 100 cubic feet	\$0 30
From 10,000 to 30,000 cubic feet, per 100 cubic feet	25
Over 30,000 cubic feet, per 100 cubic feet	20

Municipal Rates.

Fire hydrants, per month, each	\$2 00
All other municipal charges to be at the meter rates.	

Other Rates.

All other rates to remain as at present in effect.

It is hereby further ordered, that The St. Helena Water Company be and the same is hereby directed to file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern relations with its consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this thirtieth day of January, 1922.

DECISION No. 10020.

IN THE MATTER OF THE APPLICATION OF THOMAS J. ROURKE AND ELLA M. ROURKE, HIS WIFE, OWNERS OF A WATER PLANT, TO ADJUST AND ESTABLISH NEW RATES.

Application No. 7041.

Decided January 30, 1922.

WATER UTILITY—CONTRACTUAL RIGHTS—JURISDICTION.—It is held that where a company was operating as a public utility previous to the date of making a contract affecting rates, it is subject to the jurisdiction of the Commission and the rates fixed in the contract are subject to regulation.

Angus Lindley, for Applicant.

John P. Dunn, for Paul J. Otto, Protestant.

BY THE COMMISSION.

OPINION.

Thomas J. Rourke and Ella M. Rourke, applicants herein, own and operate a small water system located about two and one-half miles

south of Azusa, Los Angeles County, and supply water for domestic and irrigation use.

Applicants allege in effect that the present irrigation rate does not produce sufficient revenue to cover maintenance and operating expense, and that no rate has ever been established for domestic service.

The present rates were established by this Commission in Decision No. 8070, dated September 4, 1920, in Application No. 5436, entitled: "*In the Matter of the Application of Thomas J. Rourke and Ella M. Rourke, his wife, owners of a water plant, to abandon public utility service.*" They apply only for consumers in a Mexican colony, which at that particular time was the only water service rendered by the utility other than the irrigation supply to Mr. Paul J. Otto and to the applicants themselves. It is now proposed to establish rates for all service, including a rate for water furnished for domestic purposes.

A public hearing in this matter was held at Los Angeles, before Examiner Satterwhite, of which all interested parties were notified and given an opportunity to appear and to be heard.

This water system consists of a 16-inch well 300 feet deep, a No. 28 Pomona pump operated by a 30-horsepower gas engine, 1650 feet of 8-inch concrete pipe, 800 feet of 2-inch standard screw pipe, and 1274 feet of 1½-inch standard screw pipe. Water for irrigation use and for the Mexican colony is pumped directly into the distribution mains, while the water for domestic service is delivered into a small storage tank, from which it is distributed to the points of use. Water for the Mexican colony is delivered into cisterns from which it is drawn as needed. A test of the pump indicates that it is in need of minor repairs; that its present capacity is about 25 miner's inches or 43,700 cubic feet in 24 hours; and that its maximum capacity, when in good working order, is approximately 38 inches.

Mr. Paul J. Otto, one of the consumers of water for irrigation use, made claim to certain contractual rights and questioned the Commission's jurisdiction in establishing a rate for his service. It appears that the applicants herein, on October 22, 1917, entered into an agreement with Mr. Otto whereby he was granted an option for the purchase of five acres of land immediately west of the property on which applicants' water system is located. This agreement carried with it the right to obtain sufficient water for the irrigation of the tract, to be delivered in irrigation heads of not more than 50 inches and to be paid for at the rate of 2 cents per miner's inch per hour. On February 12, 1921, the applicants herein conveyed the property to Mr. Otto by grant deed, which provided for the delivery of water in the same manner as set out in the option agreement. It is upon this

agreement and deed that Mr. Otto bases his claim to contractual rights, and questions the Commission's jurisdiction. It appears, however, that previous to the date of this agreement applicants stood ready to furnish and did furnish water for compensation, whenever called upon to do so, to all property owners in the vicinity who desired service and could reasonably be supplied through the distribution system. It is therefore evident that applicants were operating a public utility previous to the date of the agreement entered into with Mr. Otto, and that the rates fixed therein are subject to regulation by this Commission.

Mr. F. H. Van Hoesen, one of the Commission's hydraulic engineers, submitted a report setting forth an estimated original cost of the used and useful portion of this water system amounting to \$6,470. His estimate of reasonable maintenance and operating expense was \$1,450 per year, and there was also shown a depreciation annuity of \$176, computed by the sinking fund method. Testimony indicates that Mr. Van Hoesen's estimate does not provide for a few items of reasonable expense, and that a fair allowance for maintenance and operating expense will be \$1,600 per year.

The total annual charges based upon the foregoing items are as follows:

Return at 8 per cent on \$6,470.....	\$518 00
Depreciation annuity	176 00
Maintenance and operating expense	1,600 00
Total	\$2,294 00

The total number of hours pumped from October 1, 1920, to September 30, 1921, was 1067, which indicates an average cost of \$2.15 per hour.

Mr. Willis S. Jones, on behalf of Mr. Otto, submitted a report in which the estimated cost of operation of this system was fixed at \$1.45 per hour's run of the pump. It appears, however, that all items of expense have not been included in Mr. Jones' estimate.

The present rate schedule provides for a payment of \$2.50 per hour for full discharge of the pump. This rate, however, has not been charged for water furnished to the applicants or to Mr. Otto, who has paid at the rate of approximately 62 cents per hour.

The operating revenue for the period October 1, 1920, to September 30, 1921, not including 194 hours pumped for the applicants, was \$1,071, and it is evident that a revision of the rates should be made. The schedule set out in the accompanying order is designed to do substantial justice to both the consumers and the utility, and it is estimated that the resulting revenues will approximately equal the annual charges.

ORDER.

Thomas J. Rourke and Ella M. Rourke having made application for authority to establish a new schedule of rates, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that the rates now charged by Thomas J. Rourke and Ella M. Rourke for water supplied to consumers are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that Thomas J. Rourke and Ella M. Rourke be and they are hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order, and thereafter charge, the following schedule of rates for water delivered to consumers:

Flat Rate Schedule to Mexican Colony.

A minimum monthly charge for each family of \$1.15 payable in advance, entitling consumer to the entire discharge from the pump for one-half ($\frac{1}{2}$) hour per month with pump in good working order. All excess water used to be furnished at the rate of \$2 per hour, full flow of the pump in good working condition, which is equivalent to 2700 cubic feet.

Irrigation Use.

For full discharge of the pump, in good working condition, per hour, which is equivalent to 2700 cubic feet, \$2.

For deliveries of less than 2700 cubic feet per hour the foregoing rates shall be proportionately decreased.

Monthly Domestic Flat Rate From Tank.

Residences of not over 5 rooms occupied by a single family	\$1 50
For each additional family	1 00
For each additional room	10
For each horse or cow	15
For each private garage	25
For sprinkling or irrigation of lawns, garden or shrubbery, for each square yard of surface actually irrigated	005

Monthly Domestic Metered Rate.

For 500 cubic feet or less	\$1 50
From 500 to 1000 cubic feet, per 100 cubic feet	25
From 1000 to 5000 cubic feet, per 100 cubic feet	20
Over 5000 cubic feet, per 100 cubic feet	15

It is hereby further ordered, that Thomas J Rourke and Ella M. Rourke be and they are hereby directed to file with this Commission within thirty (30) days from the date of this order, rules and regulations to govern relations with their consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this thirtieth day of January, 1922.

DECISION No. 10034.

IN THE MATTER OF THE APPLICATION OF UNITED STAGES, INC.,
A CORPORATION, FOR PERMISSION TO LEASE TO PICKWICK
STAGES, N. D., A CORPORATION, CERTAIN AUTOMOBILE STAGE
LINE FRANCHISES AND OPERATING RIGHTS OF SAID UNITED
STAGES, INC., WITH AN OPTION TO PURCHASE SAID RIGHTS.

Application No. 5937.

Decided January 30, 1922.

S. W. Thompson, for United Stages, Inc.
N. C. Folsom and *Chas. F. Wrenn*, for Pickwick Stages, N. D.
Hill and Lee, by *Robert G. Hill*, for certain proposed intervenors.

BY THE COMMISSION.

OPINION.

A public hearing was held by Examiner Westover at Los Angeles upon the above entitled application to lease to Pickwick Stages, N. D., a corporation, the operating rights of United Stages, Inc., a corporation, between Los Angeles and Santa Barbara, upon an installment sale contract, running five years with option to pay balance at the end of any year.

In operating between Los Angeles and Santa Barbara, there are three routes used east of Ventura: the northerly route being via Saugus and Santa Paula, over which United Stages operate; the southerly route via Oxnard and Calabasas, over which both parties operate; and the central route via Santa Susana and Moorpark, over which Pickwick Stages, N. D., alone operate. United Stages also operates between Santa Paula, Saticoy, El Rio and Oxnard, thus connecting the northerly and southerly routes.

Granting the application will authorize the withdrawal of the United Stages, Inc., from all service between Los Angeles and Santa Barbara. All the points in this territory heretofore served by United Stages will be served by Pickwick Stages, which the evidence shows is financially able to maintain the service, and increase it, if needed.

The inducement to Pickwick Stages to take over the line in question is found in the saving to be effected in the elimination of duplicated service, and saving in overhead expenses of operation. The lessee proposes to maintain adequate service at all points, with no increase in rates. It urges that it can better serve through passengers from the territory in question, as it operates through lines to San Francisco and Portland. It understands that in any rate making proceeding the amount paid for the operative rights under the lease contract will not be considered as part of any rate base.

At the hearing, Frederick Ernesting, O. D. Hadley, E. C. Willis, J. O. Moore, Frank Hawk, W. N. Updegraff, J. O. McClung, and C. C. Willis

asked leave to file complaint in intervention, alleging that intervenors own the rights proposed to be transferred because of operation in good faith prior to May 1, 1917. It was agreed, however, by counsel for intervenors and for both applicants that the issues presented by the proposed complaint in intervention were raised and presented before the Commission in Case No. 1473, entitled "*In the Matter of the investigation of the operations, rules, and practices of United Stages, Inc., and of the Morgan Motor Company, a corporation,*" in which the Commission issued its Decision No. 9930 on December 27, 1921, and in which it found "upon uncontradicted evidence that United Stages, Inc., or its predecessor, * * * was actually operating in good faith on May 1, 1917, * * * between the termini and over the routes described as follows:

1. *Santa Barbara Division:* Between Los Angeles and Santa Barbara, via the following route and serving the following intermediate points: Los Angeles, thence via Cahuenga Pass, Ventura Boulevard, Encino Acres, Calabasas, Newberry Park, Triunfo, Conejo, Camarillo, Oxnard, El Rio, Ventura, Rincon, Carpinteria to Santa Barbara.

2. *Santa Paula Division:* Between Los Angeles and Santa Paula, via the following route and serving the following intermediate points: Los Angeles, thence via Cahuenga Pass, Universal City, Lankershim, San Fernando, Newhall, Saugus, Castaic, Piru, Fillmore and to Santa Paula.

But did not pass upon the question of "whether or not the individual stage operators may now equitably claim a share in the value of the transportation business created under the name United Stages, or in the profits derived therefrom, which we believe to be a matter for settlement in the civil courts * * *". Therefore, Examiner Westover denied leave to file the offered complaint in intervention, and sustained objections to offers of proof of its allegations.

Hearing and decision upon the present Application No. 5937 has necessarily been delayed until the nature of the operative rights claimed by United Stages, Inc., could be determined in the above proceeding, Case No. 1473.

ORDER.

A public hearing having been held upon the above entitled application, the matter being submitted and now ready for decision;

It is hereby ordered, that United Stages, Inc., and Pickwick Stages, N. D., both corporations, be and they are hereby authorized and empowered to execute the proposed lease and option of date July 10, 1920, a copy of which is in evidence herein as Applicant's Exhibit No. 3. United Stages, Inc., is hereby authorized to discontinue operating its stages between Los Angeles and Santa Barbara and all intermediate points, and Pickwick Stages, N. D., is hereby authorized to operate its stages under and pursuant to operative rights more fully described in said lease and option of date July 10, 1920.

Provided, that Pickwick Stages, N. D., shall at all times during the term of said lease and option maintain adequate service to and from all points in said territory being served by United Stages, Inc., and,

Provided further, that any sums paid by said Pickwick Stages, N. D., under said lease and option of July 10, 1920, shall not be considered as part of the rate base in any proceeding before this Commission or any other public tribunal in determining rates to be charged by said Pickwick Stages, N. D.

Said transferor shall immediately cancel all tariffs and time schedules relating to said route with the Railroad Commission; and transferee shall immediately file tariffs and time schedules in its own name, or adopt as its own the tariff and time schedule relating to said route heretofore filed with the Railroad Commission; but all fares to be identical with those now on file with the Commission. Such filing, cancellation or adoption shall be in conformity with the provisions of General Order No. 51 and other regulations of the Railroad Commission, which, so far as applicable, are made part hereof.

The rights and privileges hereby authorized to be transferred shall not again be sold, leased, transferred, or assigned, nor shall operation thereunder be discontinued without the previous written consent of the Railroad Commission.

No vehicle may be operated in the service hereinabove described unless such vehicle is owned by the owner of said operative rights, or is leased by such owner for a specified amount for a trip or a specific term. The leasing of equipment shall not include the services of a driver or operator. All employment of drivers or operators of leased cars shall be under contract by which the driver or operator shall bear the relation of an employee to the transportation company.

Dated at San Francisco, California, this thirtieth day of January, 1922.

DECISION No. 10036.

IN THE MATTER OF THE APPLICATION OF LA HABRA DOMESTIC WATER COMPANY, A CORPORATION, FOR CERTIFICATE OF PUBLIC CONVENIENCE.

Application No. 7343.

Decided January 30, 1922.

Marks and Launer, by *Albert Launer*, for Applicant.

George H. Gobar, for R. O. Peters.

W. L. York and C. L. Crumrine, for The La Habra Citrus Association.

BY THE COMMISSION.

OPINION.

La Habra Domestic Water Company, the applicant herein, a public utility corporation engaged in the business of supplying water for domestic purposes in and in the vicinity of La Habra, Orange County, asks for a certificate of public convenience and necessity which will permit of an enlargement of the area served.

A public hearing was held at Los Angeles, before Examiner Williams, of which all interested parties were notified and given an opportunity to be present and to be heard.

Applicant is at present operating under a franchise granted by Ordinance No. 97 of the County of Orange which defines the territory to be served.

Owing to demands for service outside the limits of the original territory, applicant has secured from the county a franchise, as described by Ordinance No. 184 of the County of Orange, permitting it to supply water to consumers in an area outside of and completely surrounding the boundaries of the original franchise, and it is for this area that applicant now asks for a certificate of public convenience and necessity.

Testimony shows that no other public utility water system operates within the territory for which the certificate is desired; that there is a sufficient supply of water available to meet the demands of its present consumers; and that an additional supply can be developed from wells to be installed on land owned by applicant.

Mr. R. O. Peters protested the granting of a certificate upon the ground that applicant had refused to lay pipes in a tract of land owned by him. Testimony shows, however, that the tract has not been subdivided; that no dwellings have been erected thereon; and that the protestant has never officially requested service from applicant.

The La Habra Citrus Association also protested the granting of a certificate upon the ground that its water bills would be thereby increased. It appears that the association owns a ten-acre tract upon which it has constructed living quarters for its Mexican laborers, to whom water is supplied without charge through its own distribution and transmission mains. The water so furnished is purchased at wholesale rates through a master meter located at a considerable distance from the tract. The applicant contends that it is entitled to the monthly minimum charge for each family using water, while the protestant claimed the right to purchase water for this service at the wholesale rate.

Although this protest was withdrawn at the hearing, it is apparent that the water supplied for use on this tract is not so costly to applicant

as its regular service to the individual consumers, and that the whole-sale rate should apply. If the rates now charged for this service are unduly low, as is claimed by the applicant, proper relief may be secured through an application for an adjustment of rates.

Testimony shows that there is need for a revision of applicant's rules and regulations now filed with the Commission, in so far as they relate to noncompensatory extensions of mains to serve new territory, and such a revision will be directed in the accompanying order.

A careful consideration of all the evidence indicates that a certificate of public convenience and necessity should be granted.

ORDER.

La Habra Domestic Water Company having made application for a certificate of public convenience and necessity, a public hearing having been held thereon, the matter having been submitted, and it appearing that the application should be granted;

It is hereby ordered, that La Habra Domestic Water Company be and the same is hereby granted a certificate of public convenience and necessity authorizing it to supply water to consumers within the territory described in ordinances No. 97 and No. 184 of the county of Orange.

It is hereby further ordered, that La Habra Domestic Water Company be and the same is hereby directed to file with this Commission, within thirty (30) days from the date of this order, an amendment to its Rule No. 10, providing in effect that when an application for service requires the construction of more than 100 feet of main for each consumer the cost of the extension in excess of 100 feet shall be deposited with the utility by the applicant for service, the deposit to be returned when the total revenue received from the sale of water on the extension for twelve consecutive months equals twenty per cent of the total cost of the extension and the necessary services and meters thereon.

Dated at San Francisco, California, this thirtieth day of January, 1922.

DECISION No. 10037.

IN THE MATTER OF THE APPLICATION OF MOUNT SHASTA POWER CORPORATION AND PACIFIC GAS AND ELECTRIC COMPANY FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE CONSTRUCTION OF CERTAIN POWER PROJECTS AND TRANSMISSION LINES.

Application No. 6044.

(Second Supplemental Application.)

Decided January 30, 1922.

BY THE COMMISSION.

ORDER.

Mount Shasta Power Corporation and Pacific Gas and Electric Company, a corporation, applicants herein, having on December 19, 1921, filed with the Commission a second supplemental application in this proceeding for permission to construct a railroad track at grade across the Cayden Valley road, the Fall River Mills road and the road on the north side of Pit River, county of Shasta, State of California, as hereinafter indicated, and it appearing to the Commission that this is not a case in which a public hearing is necessary; that the necessary franchise or permit has been granted by board of supervisors of said county of Shasta for the construction of said crossings at grade, and it further appearing that it is not reasonable nor practicable to avoid grade crossings with said railroad track, and that this second supplemental application should be granted subject to the conditions hereinafter specified;

It is hereby ordered, that permission be and it is hereby granted Mount Shasta Power Corporation and Pacific Gas and Electric Company to construct a railroad track at grade across Cayden Valley road, Fall River Mills road and the road on the north side of Pit River, in the county of Shasta, State of California, the intersections of the center line of said railroad track with the center line of said roads being described as follows:

Crossing No. 1.

Beginning at the northeast corner of section 20, township 38 north, range 3 east, M. D. B. and M., thence west along the north line of said section 20, a distance of nine hundred thirty (930) feet to the center line of the railroad, owned by the Mount Shasta Power Corporation, thence southeasterly along the center line of said railroad, a distance of four hundred thirty-two (432) feet, to a point designated as Engineer's Station 413 plus 75 in the north half of the northeast quarter of said section 20, said point being at the intersection of the center line of said railroad with the center line of the Cayden Valley road, said center lines intersecting at an angle of twenty-three (23) degrees and thirty-one (31) minutes.

Crossing No. 2.

Beginning at the northeast corner of the southeast quarter of section 20, township 38 north, range 3 east, M. D. B. and M., thence west along the center line of said section 20, a distance of two hundred seventy (270) feet to the center

line of the railroad owned by the Mount Shasta Power Corporation, thence southerly along the center line of said railroad, a distance of one thousand four hundred forty-one (1441) feet to a point designated as Engineer's Station 376 plus 15 in the east half of the southeast quarter of said section 20, said point being at the intersection of the center line of said railroad with the center line of the Cayden Valley road, said center lines intersecting at an angle of seventy-seven (77) degrees.

Crossing No. 3.

Beginning at the northeast corner of section 17, township 37 north, range 3 east, M. D. B. and M., thence south along the east line of said section 17, a distance of one thousand ninety-three and seventy-three hundredths (1093.73) feet to the center line of the railroad owned by the Mount Shasta Power Corporation, thence northwesterly along the center line of said railroad, a distance of eight hundred fifty-three (853) feet to a point designated as Engineer's Station 41 plus 03 in the northeast quarter of the northeast quarter of said section 17, said point being at the intersection of the center line of said railroad with the center line of the Cayden Valley road, said center lines intersecting at an angle of forty-two (42) degrees.

Crossing No. 4.

Beginning at the northwest corner of section 16, township 37, range 3 east, M. D. B. and M., thence south along the west line of said section 16, a distance of one thousand ninety-three and seventy-three hundredths (1093.73) feet to the center line of the railroad owned by the Mount Shasta Power Corporation, thence southeasterly along the center line of said railroad, a distance of two thousand one hundred sixty-seven (2167) feet to a point designated as Engineer's Station 0 plus 98 in the south half of the northwest quarter of said section 16, said point being at the intersection of the center line of said railroad with the center line of the Fall River Mills road, said center lines intersecting at an angle of eighty (80) degrees.

Crossing No. 5.

Beginning at the northwest corner of section 21, township 37 north, range 3 east, M. D. B. and M., thence east along the north line of said section 21, a distance of one thousand (1000) feet to the center line of the railroad, owned by the Mount Shasta Power Corporation, thence southeasterly along the center line of said railroad, a distance of one thousand eight hundred sixty (1860) feet to a point designated as Engineer's Station 54 plus 83, said point in the south half of the northwest quarter of said section 21, said point being at the intersection of the center line of said railroad with the center line of the road on the north side of Pit River, said center lines intersecting at an angle of seventy-five (75) degrees.

Crossing No. 6.

Beginning at the northwest corner of section 1, township 36 north, range 3 east, M. D. B. and M., thence south along the west line of said section 1, a distance of six hundred forty (640) feet to the center line of the railroad, owned by the Mount Shasta Power Corporation, thence southeasterly along the center line of said railroad, a distance of two thousand eight hundred thirty (2830) feet to a point designated as Engineer's Station 231 plus 57 in the southeast quarter of the northwest quarter of said section 1, said point being at the intersection of the center line of said railroad with the center line of the road on the north side of Pit River, said center lines intersecting at an angle of seventy-five (75) degrees.

Crossing No. 7.

Beginning at the northeast corner of the southeast quarter of section 1, township 36 north, range 3 east, M. D. B. and M., thence south along the east line of said section 1, a distance of one thousand two hundred thirty (1230) feet to the center line of the railroad owned by the Mount Shasta Power Corporation, thence northwesterly along the center line of said railroad, a distance of four hundred sixty-seven (467) feet to a point designated as Engineer's Station 267 plus 75 in the north half of the southeast quarter of said section 1, said point being at the intersection of the center line of said railroad with the center line of the road on the north side of Pit River, said center lines intersecting at an angle of eighty-eight (88) degrees and thirty-three (33) minutes.

Crossing No. 8.

Beginning at the southwest corner of section 31, township 37 north, range 4 east, M. D. B. and M., thence east along the south line of said section 31, a distance of four hundred sixty (460) feet to the intersection of the railroad, owned by the Mount Shasta Power Corporation, with the north line of lot 2, section 7, township 36 north, range 4 east, M. D. B. and M., said point also being the intersection of the center line of said railroad with the center line of the county road on the north side of Pit River said center lines intersecting at an angle of seventy-three (73) degrees.

Crossing No. 9.

Beginning at the northeast corner of section 17, township 36 north, range 4 east, M. D. B. and M., thence south along the east line of said section 17, a distance of one thousand three hundred twenty (1320) feet to the center line of the railroad, owned by the Mount Shasta Power Corporation, thence westerly along the center line of said railroad, a distance of two thousand four hundred ten (2410) feet to a point designated as Engineer's Station 386 plus 20 in the north half of the northeast quarter of said section 17, said point being at the intersection of the center line of said railroad with the center line of the road on the north side of Pit River, said center lines intersecting at an angle of seventy-six (76) degrees.

Crossing No. 10.

Beginning at the northwest corner of section 16, township 36 north, range 4 east, M. D. B. and M., thence south along the west line of said section 16, a distance of one thousand three hundred twenty (1320) feet to the center line of the railroad, owned by the Mount Shasta Power Corporation, thence easterly along the center line of said railroad, a distance of one thousand two hundred sixty-three (1263) feet to a point designated as Engineer's Station 422 plus 93 in the north half of the northwest quarter of said section 16, said point being at the intersection of the center line of said railroad with the center line of the road on the north side of Pit River, said center lines intersecting at an angle of thirty-four (34) degrees.

Crossing No. 11.

Beginning at the northeast corner of section 16, township 36 north, range 4 east, M. D. B. and M., thence south along the east line of said section 16, a distance of one thousand nine hundred fifty-six (1956) feet to the center line of the railroad, owned by the Mount Shasta Power Corporation, thence westerly along the center line of said railroad, a distance of one thousand six hundred seventy-two (1672) feet to a point designated as Engineer's Station 448 plus 06 in the south half of the northeast quarter of said section 16, said point being at the intersection of the center line of said railroad with the center line of the road on the north side of Pit River, said center lines intersecting at an angle of thirty-four (34) degrees.

all of the above as shown by the maps attached to the second supplemental application in this proceeding; said crossings to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing the crossings, together with the cost of their maintenance thereafter in good and first-class condition for the safe and convenient use of the public shall be borne by applicant.

(2) Said crossings shall be constructed of a width and type of construction to conform to the adjacent portions of said roads, with grades of approach not exceeding four (4) per cent.

(3) Each crossing shall be protected by a suitable crossing sign and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(4) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossings.

(5) The authorization herein granted for the installation of said crossings shall lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(6) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demands such action.

Dated at San Francisco, California, this thirtieth day of January, 1922.

DECISION No. 10046.

ALEXANDER CUMMINGS, ET AL.,

vs.

LA RICA WATER COMPANY, A CORPORATION.

Case No. 1674.

Decided February 2, 1922.

BY THE COMMISSION.

OPINION.

Complainants herein allege that the rate of \$2.25 per hour's run of defendant's pump as charged for irrigation service is exorbitant and prohibitive; that a reasonable rate to be charged for such service is not to exceed one cent per miner's inch per hour, and that defendant has frequently refused to furnish water to consumers within a reasonable time after request therefor has been made. -

Complainants therefore ask that defendant be required to furnish water to consumers at a rate of not to exceed one cent per miner's inch per hour, and upon not to exceed twenty-four hours' notice; and that defendant be ordered to install suitable measuring devices and that all water be sold at measured rates.

A public hearing was held at Baldwin Park, before Examiner Williams, the matter has been submitted, and is now ready for decision.

Defendant operates a small public utility water system in the vicinity of the unincorporated town of Baldwin Park, Los Angeles County, supplying water for irrigation purposes to a few consumers and to approximately ten families for domestic uses. The system consists of a 12-inch well 153 feet deep, a vertical centrifugal pump operated by a 42-horsepower natural gas engine, and a small amount

of pipe. About 131 acres were irrigated in 1920 and approximately 111 acres in 1921.

The present rate for irrigation service was fixed as \$2.25 per hour's run of the pump, by this Commission in Decision No. 7492, dated April 26, 1920, in Application No. 5129, entitled: *In the Matter of the Application of La Rica Water Company for permission to increase the rate charged for irrigation water.*

The domestic rate is not an element in this proceeding.

Complainants introduced evidence regarding costs of operation of mutual pumping plants in the vicinity of Baldwin Park, the estimates ranging from 0.94 to 1.5 cents per miner's inch per hour, but all estimates were exclusive of depreciation allowance and return upon the investment.

Mr. J. G. Hunter, one of the Commission's hydraulic engineers, presented a report based upon an examination of the system, setting forth an estimated original cost of the system amounting to \$6,128, a depreciation annuity computed by the sinking fund method of \$132, and an estimate of reasonable maintenance and operating expense for the future of \$1,405.

Annual charges based upon the foregoing items are as follows:

Return at 8 per cent upon \$6,128.....	\$490 00
Depreciation annuity	132 00
Maintenance and operating expense.....	1,405 00
Total	\$2,027 00

Revenues from the sale of water for the year 1921 were \$1,460, or \$547 less than the annual charges. It is evident that the plant is not operating at full capacity and it is probable that the output could be largely increased without proportionately increasing the annual charges.

In view of all the conditions, however, it does not appear that the present charges are exorbitant.

There are no available records to show the quantity of water delivered to consumers as the output of the plant is not measured. Complainants contend that the discharge of the pump is not to exceed 100 inches, while defendant estimates the output at about 135 inches. Testimony shows that a test of the pump indicated a discharge of 122 inches, and it is probable that an estimate of 125 inches would be approximately correct.

It is apparent that a measured rate would be more equitable and satisfactory than the present method of charging for the output of the plant upon an hourly basis. A metered rate will therefore be established and the defendant will be directed to install suitable measuring devices. The metered rate is based upon the present charge per hour and upon

an estimated output of 125 miner's inches, thus approximating the present rate.

With the exception of Mr. Cummings, none of the consumers testified that defendant had refused or neglected to supply water within a reasonable time after they had expressed a desire for service. It was also shown that the complaint of Mr. Cummings referred to a delay in securing water suffered some three years ago, also that he has installed his own pumping plant and is not now a consumer of this utility.

ORDER.

Alexander Cummings and others having made complaint against La Rica Water Company, a public hearing having been held thereon and the matter having been submitted:

It is hereby found as a fact that the present rates charged by La Rica Water Company for water delivered to consumers for irrigation use are not unreasonable as is alleged by complainants, but that public interest will be best served by the conversion of the present form of rate into a charge based upon actual quantities consumed.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that La Rica Water Company be and the same is hereby authorized and directed to file with this Commission, within twenty (20) days from the date of this order, the following rate for water delivered for irrigation purposes, effective for all water delivered subsequent to March 31, 1922:

Irrigation Service. For each miner's inch hour 1.8 cents, which is equivalent to 2.5 cents per 100 cubic feet.

It is hereby further ordered, that La Rica Water Company be and the same is hereby directed to install suitable measuring device or devices for the measurement of all water delivered to consumers, such installation to be completed on or before March 24, 1922, and written notice thereof sent this Commission on or before March 27, 1922.

It is hereby further ordered, that in all other respects the complaint herein be and the same is hereby dismissed.

Dated at San Francisco, California, this second day of February, 1922.

DECISION No. 10049.

IN THE MATTER OF THE APPLICATION OF SOUTH BERKELEY COMMERCIAL CLUB, A VOLUNTARY CIVIC AND COMMERCIAL ORGANIZATION, AND DIVERS CITIZENS AND TAXPAYERS OF SOUTH BERKELEY, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, FOR AN ORDER AUTHORIZING THE SOUTHERN PACIFIC COMPANY, A CORPORATION, TO INSTALL TICKET PURCHASING FACILITIES AND TO STOP ALL ELLSWORTH STREET TRAINS AT SOUTH BERKELEY

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION.

Case No. 1480.

Decided February 2, 1922.

ELECTRIC RAILROAD SERVICE—STOPPING AT STATION—UNDUE HAZARD.—It is held that public necessity was not shown for the stopping of the Ellsworth line electric trains of the Southern Pacific at South Berkeley and that no undue hazard was created by the trains passing through without stopping.

STATION FACILITIES—RE-ESTABLISHMENT OF.—It is held that the business transacted at South Berkeley justifies the re-establishment of station facilities, discontinued during federal control.

George Gelder, for Complainants.

Frank B. Austin, for Defendant.

Frank V. Cornish, city attorney, for City of Berkeley.

BY THE COMMISSION.

OPINION.

Complainants herein allege that the operation of the Ellsworth street train of the electric system of the Southern Pacific Company by reason of the manner of its operation has become and is a menace to the safety, welfare and wellbeing of the citizens, inhabitants and the general traveling public who are compelled to travel on cross streets at South Berkeley and at and in the vicinity of what is known as South Berkeley station, and to those who board and use all the trains of defendant stopping at South Berkeley station; that said South Berkeley is a fit and proper place to have and that the public convenience requires and demands that all of the Ellsworth street line trains of defendant stop at South Berkeley for the purpose of taking on and discharging passengers; that a ticket station or some proper convenience be maintained at South Berkeley and that proper baggage facilities be provided and maintained at said point. Complainants request an order of the Railroad Commission requiring the trains operated on the Ellsworth street line of the Southern Pacific Company's electric suburban system to stop at South Berkeley for the purpose of taking on and discharging passengers; that proper ticket selling facilities be established at such point; and that facilities for the handling of baggage be also provided.

Defendant, Southern Pacific Company, duly filed its answer herein denying the material allegations of the complaint and alleging that its service and facilities at South Berkeley were entirely adequate.

A public hearing on this complaint was conducted by Examiner Handford at South Berkeley, evidence was received from witnesses for complainants and defendant, the matter was duly submitted and is now ready for decision.

Witnesses for complainants testified as to the desire of the community served by the South Berkeley station of the defendant's electric lines for the stopping of the Ellsworth line trains at the South Berkeley station; that such stopping of trains would, in their opinion, not only eliminate the accident hazard but would make possible an interchange at South Berkeley of passengers to or from Ellsworth line trains who might desire to use the service of defendant's Shattuck avenue trains. The city council of the city of Berkeley is also in favor of the establishment of a station at South Berkeley and the stopping of the Ellsworth line trains as requested by complainants. The district that would be benefited by the establishment of a station at South Berkeley is claimed to have a population variously estimated at from twenty thousand to thirty thousand people who reside in a district bounded by Ashby avenue, Sixtieth street, Baker street and the so-called Claremont district.

The South Berkeley station stop of the Southern Pacific Company is located on Adeline street at a point slightly north of its intersection with Alcatraz avenue, and the right of way of the Southern Pacific Company is approximately in the center of Adeline street. The street is paved and vehicular traffic uses the street on each side of the Southern Pacific right of way. In addition, on the east side of the Southern Pacific Company's tracks are located the Key Division tracks of the San Francisco-Oakland Terminal Railways, on the west side of the Southern Pacific Company's right of way are located the tracks of the Grove street line of the Traction Division of the San Francisco-Oakland Terminal Railways, such tracks crossing the tracks of the Southern Pacific Company at Alcatraz avenue. Grove street is one of the main thoroughfares between the city of Berkeley and the city of Oakland, and Adeline street from its intersection with Grove street at Alcatraz avenue is also to a lesser degree a means of access to and from Berkeley and Oakland. By the reason of the traffic conditions above briefly referred to, conditions in the vicinity of the South Berkeley station of the Southern Pacific Company result in heavy traffic, particularly as regards the crossing of the Southern Pacific Company's tracks at Alcatraz avenue. The trains of the Southern Pacific Company on the Ellsworth street line diverge from the Shattuck avenue line at Woolsey street resulting in a crossing of Adeline street at its intersection with Woolsey street and the combined service of the Southern Pacific Company's Shattuck avenue line, Ellsworth street

line, the San Francisco-Oakland Terminal Railways, Berkeley, and the Piedmont-Berkeley lines of its Key Division, the Grove street traction line of the Traction Division and the vehicular traffic destined to and from Oakland and Berkeley via Grove and Adeline streets together with the traffic on Alcatraz avenue and other north and south streets making the volume of traffic centering in and about South Berkeley the basis of complaint. Petitions were presented and received in evidence alleging that the speed of the Ellsworth line trains were dangerous to life and property, such petitions being signed by 332 persons residing in the South Berkeley district.

Witnesses for defendant, Southern Pacific Company, testified if the Ellsworth street line trains were required to stop at South Berkeley that difficulty would be experienced in maintaining time schedules, thereby slowing down all the Berkeley service as now rendered by defendants, and inconveniencing a greater number of people than would be favored were the prayer of complainants to be granted. An Exhibit was filed by defendant, Southern Pacific Company, indicating the stations closely adjacent to South Berkeley where stops were made to accommodate passengers, such stations and their distances from the South Berkeley station being as follows:

Station	Line	Distance from South Berkeley Station
Tremont	Ellsworth	1440 feet
Sixty-first street	California street	1700 feet
Harmon	California street	1260 feet
Ashby	California street	2200 feet

The timetable of the electric division of the Southern Pacific Company carries a speed restriction for the government of employees which requires all trains on the Shattuck or Ellsworth lines to reduce speed to ten miles per hour when passing South Berkeley, Ashby avenue, Dwight way, Center street and University avenue. A check of the passenger traffic boarding and departing from the trains of the Southern Pacific Company at South Berkeley made on May 8 and 9, 1919, and claimed to be representative days shows an average number of passengers boarding trains eastbound—two, westbound—seven; passengers leaving train, eastbound—six, westbound—1.5. Defendant filed at the hearing as its Exhibit No. 4 original petitions circulated by the Southern Pacific Company among its patrons on the Ellsworth and Shattuck avenue trains, such petitions or signed statements expressing the opinion of the signers that the stopping of the Ellsworth street trains at South Berkeley station was neither necessary nor desirable. A total of 1960 persons signed such petitions.

Witnesses for defendant testified that an agency station had been maintained at South Berkeley for some thirty years, and that such

agency was closed by the United States Railroad Administration in July, 1918, in connection with the conservation of man power during the war. A statement indicating the business handled at South Berkeley station during the last six months of its operation indicates the following business handled at such point, the figures indicating the average monthly business for the period January to June, 1918, inclusive:

Number local tickets sold 106, revenue-----	\$478 77
Number suburban tickets sold 123, revenue-----	170 62
Number coupon tickets sold 27, revenue-----	499 13
Total ticket revenue -----	\$1,148 52
Average monthly baggage revenue-----	1 27
Total -----	\$1,149 79

The average expense of maintaining the agency, including agent's salary, rent, telephone, fuel, stationery, light and water was \$139.16 during this period.

We have given careful consideration to all the evidence and exhibits filed in this proceeding and do not find a necessity for the requested stopping of all Ellsworth line trains at South Berkeley station, nor that an undue hazard is created at South Berkeley by reason of such trains passing through that station without stopping, the operating rules and regulations of the defendant, Southern Pacific Company, requiring a reduction of the speed of trains in the territory in which the station is located. The volume of patronage now using South Berkeley station, and being confined to the use of the Shattuck line, does not indicate that any undue hardship is placed upon the patrons of the Southern Pacific Company by reason of South Berkeley not being a station stop for the Ellsworth line trains. A very considerable number of the patrons of the Southern Pacific Company have by their signed statements indicated their disapproval of the proposed stopping as appears from an exhibit filed herein containing 1960 signatures of which number 1217 signatures were procured on the Ellsworth line trains.

As to the matter of the requested reestablishment of station facilities at South Berkeley. The discontinuance of the station facilities, which had been enjoyed by the traveling public for over thirty years last past, was made by the United States Railroad Administration operating the lines of the Southern Pacific Company during the war period, and as was proper during such period, the United States Railroad Administration made such curtailments in train service, station facilities and other matters affecting the public as were by such federal body considered necessary in the emergency then existing and which were calculated to conserve man power and eliminate

expense. All inconveniences thereby created were fully and fairly met by the traveling public and the patrons of all railroads, including defendant herein. The railroad operated by the Southern Pacific Company has returned to private operation, and there appears at this time no reason why conditions should not be restored to those existing at the time the property of the Southern Pacific Company was taken over for operation by the federal government. In our opinion the business transacted at South Berkeley station, as evidenced by the record existing during the last six months of its operation as an agency station, justifies the reestablishment of such station facilities and their continuance until such time as an appropriate showing will have been made to this Commission in accordance with provisions of its General Order No. 36.

ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and the Commission being fully advised;

It is hereby ordered, that the portion of the complaint herein requesting that defendant, Southern Pacific Company, be required to stop all trains on its Ellsworth street line at South Berkeley be and the same hereby is dismissed.

It is hereby further ordered, that defendant, Southern Pacific Company, be and the same hereby is required to immediately reestablish station facilities at its station of South Berkeley including the services of an agent and adequate facilities for the care of incoming and outgoing baggage, also such waiting room accommodations as may be necessary to adequately care for the patronage offered at such station.

Dated at San Francisco, California, this second day of February, 1922.

DECISION No. 10059.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ISSUE TWO MILLION SIX HUNDRED FIVE THOUSAND DOLLARS FACE AMOUNT OF ITS GENERAL AND REFUNDING MORTGAGE SIX PER CENT TWENTY-FIVE-YEAR GOLD BONDS OF THE SERIES OF 1919.

Application No. 7519.

Decided February 2, 1922.

Roy V. Reppy, for Applicant.

BENEDICT, *Commissioner*.

OPINION.

Southern California Edison Company, in the above entitled matter, asks permission to issue \$2,605,000 face amount of its general and

refunding 6 per cent 25-year gold bonds of the series of 1919, for the purpose of paying and refunding \$2,605,000 face amount of first and refunding mortgage 5 per cent gold bonds issued by The Edison Electric Company.

It appears from the record in this proceeding that The Edison Electric Company bonds have been issued under a mortgage dated September 1, 1902, and are payable on September 1, 1922. Applicant intends to exchange 6 per cent general and refunding bonds for the 5 per cent Edison Electric Company bonds on the basis of par for par. It has made an arrangement with Harris Trust and Savings Bank whereby that bank will endeavor to secure from the holders of The Edison Electric Company bonds an exchange of their bonds for 6 per cent general and refunding bonds of Southern California Edison Company. For the services rendered, Harris Trust and Savings Bank is to receive an amount equivalent to 2 per cent of the face value of the bonds exchanged. It is believed that the refunding of the bonds on the basis indicated will be more economical than the selling of general and refunding bonds and using the proceeds to pay The Edison Electric Company bonds in cash.

I herewith submit the following form of order:

ORDER.

Southern California Edison Company having applied to the Railroad Commission for permission to issue \$2,605,000 face amount of bonds, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of such bonds is reasonably required by applicant and that the expenditures are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Southern California Edison Company be and it is hereby authorized to issue, at not less than par, \$2,605,000 face amount of its general and refunding 6 per cent gold bonds of the series of 1919, for the purpose of paying and refunding \$2,605,000 face amount of first and refunding mortgage 5 per cent gold bonds issued by The Edison Electric Company and payable September 1, 1922.

The authority herein granted is subject to further conditions as follows:

1. The Southern California Edison Company may expend for commission or brokerage fees an amount not in excess of 2 per cent of the face amount of general and refunding mortgage 6 per cent bonds issued in exchange on a par for par basis for first and refunding mortgage 5 per cent bonds of The Edison Electric Company.

2. Southern California Edison Company shall keep such record of the issue, sale and exchange of the bonds herein authorized and of the disposition of their proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57b of the Public Utilities Act, which fee amounts to \$1,803.

4. The authority herein granted will apply only to such bonds as may be issued, sold and delivered on or before October 1, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this second day of February, 1922.

DECISION No. 10062.

IN THE MATTER OF THE APPLICATION OF HOLTON POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF TWENTY-FIVE THOUSAND DOLLARS PAR VALUE OF FIRST AND REFUNDING MORTGAGE GOLD BONDS.

Application No. 7457.

Decided February 3, 1922.

I. B. Potter, for Applicant.

BENEDICT, Commissioner.

OPINION.

Holton Power Company asks permission to issue and sell, at not less than 80 per cent of face value, plus accrued interest, \$25,000 of its first and refunding mortgage 6 per cent gold bonds for the purpose of reimbursing its treasury for moneys expended in the payment of \$25,000 of its first mortgage 6 per cent bonds that matured on January 1, 1922.

The application shows that Holton Power Company on June 29, 1907, executed its first mortgage to secure an authorized issue of \$500,000 of 6 per cent bonds maturing in equal annual installments of \$25,000 on the first day of January of each of the years 1918 to 1937, both inclusive. Subsequently, on October 1, 1911, the company executed its first and refunding mortgage securing the payment of \$1,000,000 of first and refunding 6 per cent bonds. The first and refunding bonds mature in annual installments of \$50,000 a year on

January first of each of the years 1932 to 1951, both inclusive. As of October 31, 1921, applicant reports \$400,000 of first mortgage bonds and \$600,000 of first and refunding mortgage bonds issued and outstanding.

Of the \$1,000,000 of first and refunding bonds, \$500,000 were issued to pay for additions and betterments and \$500,000 were reserved to retire the first mortgage bonds. Heretofore, by Decision No. 6397, dated June 10, 1919, and by Decision No. 8864, dated April 16, 1921, the Commission authorized applicant to issue, in the aggregate, \$100,000 of first and refunding mortgage bonds to refund the \$100,000 of first mortgage bonds that matured in 1918, 1919, 1920 and 1921.

The company now reports that it has paid the \$25,000 of first mortgage bonds that matured January 1, 1922. The testimony of A. S. Cooper, applicant's treasurer, shows that these bonds were paid with borrowed money.

The company asks permission to issue and sell \$25,000 of its first and refunding mortgage bonds to Hydro Electric Securities Company and to use the proceeds to reimburse itself for moneys expended in paying the first mortgage bonds, and thereafter to pay, in part, its current liabilities.

Applicant reports its assets and liabilities as of October 31, 1921 as follows:

<i>Assets.</i>	
Fixed capital	\$1,772,241 55
Cash and deposits	52,589 92
Notes receivable	103 44
Accounts receivable	157,414 18
Investments	201,639 30
Materials and supplies	103,488 86
Prepaid expenses	3,262 33
Unamortized discount	711,868 06
Construction work in progress	140,629 86
Corporate deficit	112,992 50
Total assets	\$3,256,260 60
<i>Liabilities.</i>	
Capital stock	\$950,000 00
Funded debt	1,000,000 00
Notes payable	51,818 80
Accounts payable	883,800 31
Interest and taxes accrued	41,536 08
Reserve for accrued depreciation	311,455 33
Casualty and insurance reserve	2,182 87
Other reserves	14,755 75
Rents billed in advance	260 41
Consumers' contributions for capital purposes	451 05
Total liabilities	\$3,256,260 60

I herewith submit the following form of order:

ORDER.

Holton Power Company having applied to the Railroad Commission for permission to issue and sell \$25,000 of its first and refunding mortgage bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Holton Power Company be and it is hereby authorized to issue and sell \$25,000 of its first and refunding mortgage bonds and to use the proceeds to pay indebtedness incurred for the purpose of securing moneys to pay the \$25,000 of first mortgage bonds that matured on January 1, 1922.

The authority herein granted is subject to the following conditions:

1. The bonds herein authorized shall be sold on or before June 30, 1922, at not less than 80 per cent of face value, plus accrued interest.

2. Holton Power Company shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

3. The authority herein granted to issue bonds will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$25.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this third day of February, 1922.

DECISION No. 10063.

IN THE MATTER OF THE APPLICATION OF E. H. SHULL FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE FREIGHT TRUCK SERVICE BETWEEN LOS ANGELES, OAKLAND, SAN FRANCISCO AND BERKELEY AND CERTAIN INTERMEDIATE POINTS.

Application No. 7345.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA HIGHWAY EXPRESS, A CORPORATION, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE MOTOR-TRUCK SERVICE FOR TRANSPORTATION OF CERTAIN PERSONAL PROPERTY BETWEEN SAN FRANCISCO AND LOS ANGELES, AND LOS ANGELES AND SAN FRANCISCO, AND INTERMEDIATE POINTS.

Application No. 7376.

Decided February 8, 1922.

MOTOR CARRIERS—HOUSEHOLD GOODS—PACKING—DRAYAGE—RATES.—It is found that rates for transporting furniture are excessive. Claims of saving on account of avoiding crating and drayage are declared unfounded, as proposed rates are as high as express rates.

CERTIFICATE—SERVICE—REASONABLE RATES.—Held that the public is entitled to the facilities offered by applicants at reasonable rates. Certificate granted subject to acceptance of rate schedule as established in the order.

Harry A. Encell and Frank T. Smith, for Applicant, E. H. Shull.

Milton Marks, for Applicant, California Highway Express.

L. N. Bradshaw, for Southern Pacific Company, Protestant.

Edward Stern, for American Railway Express Company, Protestant.

B. Levy, N. W. Hall and E. T. Lucey, for Atchison, Topeka and Santa Fe Railway Company, Protestant.

L. B. Randall, for Hodge Transportation Company and the White Lines, Protestants.

Devlin and Brookman, by *Frank R. Devlin*, for San Joaquin Valley Transportation Company, Protestant.

BY THE COMMISSION.

OPINION.

E. H. Shull, applicant in Application No. 7345, has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by him of an automobile truck line as a common carrier of household goods consisting of new or second-hand furniture, personal effects, trunks and pianos between Los Angeles, Oakland, Berkeley, and San Francisco and intermediate points, no shipments to be handled unless point of origin or destination is Los Angeles, Oakland, Berkeley or San Francisco, the application also eliminating any service between Bakersfield and Los Angeles or points intermediate.

California Highway Express, a corporation, applicant in Application No. 7376, has petitioned the Railroad Commission for an order declaring that public convenience and necessity requires the operation by it of a motor-truck service for the transportation of household and office furniture and equipment, baggage and personal effects, household

goods and pianos between Los Angeles and San Francisco and all intermediate points, including territory located within twenty-five miles of the main highway between terminals, excepting, however, local intermediate business between San Francisco and Manteca and between Los Angeles and Bakersfield.

Public hearings on the above applications were conducted by Examiner Handford at San Francisco, the matters were by stipulation of interested counsel consolidated for the purpose of receiving evidence, were duly submitted and are now ready for decision.

Applicant, E. H. Shull, proposes to charge rates in accordance with a schedule filed as Exhibit "A" and attached to Application No. 7345, to operate regularly three round trips per month, maintaining agencies at San Francisco, Oakland and Los Angeles. The equipment proposed to be used in the contemplated service consists of one Mack truck 2½-tons capacity; one Kissell truck 2½-tons capacity; one Packard truck 2½-tons capacity; and one White truck 3½-tons capacity. This applicant relies as justification for the granting of the desired certificate upon the alleged facts that the existing rail transportation lines require, under their regulations, that shipments of household goods and personal effects must be securely packed and crated thereby causing an excessive expense to shippers; that the cost of local drayage from point of shipment to rail depot and from rail depot to ultimate destination of shipments is excessive and also necessitates six different handlings of shipments as against but two handlings by the proposed truck service; that there is a constant need for the transportation of trunks and personal effects of the public who may elect to travel by automobiles or auto stages; that the applicant has had experience in the handling of household goods in the "for hire" transfer business and is therefore capable of giving proper service to prospective patrons should a certificate be granted.

Applicant, California Highway Express, a corporation, proposes to charge rates in accordance with a schedule marked Exhibit "A" as filed with the application in Application No. 7376, and as amended by permission at one of the hearings, to operate a round trip twice each week with such additional trips as may be justified by traffic conditions; to use as equipment in the proposed service two Wolverine enclosed vans, each of 3½-tons capacity; one Giant truck with stake body of 2½-tons capacity; one Chevrolet truck with stake body of 1-ton capacity; and two Garford furniture trucks, one of 2-tons and one of 1½-tons capacity.

This applicant relies as justification for the granting of the desired certificate upon the following alleged facts: a widespread and consist-

ent public demand for a rapid, economic and sytematic transportation of household and office furniture and equipment, of pianos, personal effects, household goods and pianos in the territory sought to be served; that no other carrier is equipped to adequately and properly handle and transport the above classes of property unless same be crated; that the carrier has systematized the method and manner of handling the proposed business; that the service proposed to be rendered will effect economies to the shipper or consignee in the saving of many charges for local hauling, crating, etc.; that the proposed service will meet the public demand for speedy transportation and prompt delivery of the classes of shipments sought to be handled; that advantages accrue to the public by the use of a carrier making possible the advantages of a house to house delivery; and that the proposed service to be rendered by this applicant reduces the risk of loss or damage incidental to frequent handling, packing, loading and reloading.

E. H. Shull, applicant in Application No. 7345, testified that he had had six months experience in the transportation of household goods between Los Angeles and San Francisco, having operated for the Ambassador Transfer Company, an unauthorized carrier, and later for himself until he was advised that the regularity of his operation required a certificate of public convenience and necessity to conform to the provisions of chapter 213, Statutes of 1917, and its amendments. On an average of from 10 to 12 tons of household goods were transported between Los Angeles and San Francisco, the average elapsed time being 34 to 38 hours if two men were employed on the trip and a maximum time of three days for the round trip if but one man was employed. The average time for handling a shipment from the point of origin to point of destination, usually covering the picking up of the shipment the day before the departure of the truck and delivering the shipment at its ultimate destination the day after arrival at the terminal was stated to be approximately 72 hours. An average of two tons per month was offered for movement between Los Angeles and Fresno. This witness estimates, from his observations and experience of six months, that 75 per cent of the shipments of the classes of goods proposed to be handled is through traffic between terminals and that the remaining 25 per cent is local or intermediate business originating at or destined to a terminal.

Chester A. Nelson, president and manager of California Highway Express, applicant in Application No. 7376, testified as to his experience in the handling of shipments as herein sought to be authorized by certificate, that originally he was giving the service from Los Angeles to any point and not following any specific regular route or holding

himself out to operate between fixed termini; that the business grew to the extent that an average of three trips per week were being made between Los Angeles and San Francisco and the necessity for the securing of a certificate to legalize the operation became apparent. This witness described the standard equipment proposed to be used, two units of which have already been procured and which represent an expenditure of \$7,500 each and are specially designed for the class of business proposed to be handled, and include sleeping accommodations for drivers. This witness estimates 48 hours as the maximum time that will be required to accomplish delivery between points of origin of a shipment and its delivery at its ultimate destination. Two men are to be employed on each truck, enabling the operation to be conducted so that the requirement of the Commission prohibiting the working of an employee as a driver more than 10 hours in any 24-hour period will be complied with. Under the proposed method of operation household and other goods ordinarily requiring crating when offered for rail shipment will be accepted and transported without the necessity of crating, if so offered by shippers. From 5 to 20 inquiries per day are received by this witness at his Los Angeles office and the business at San Francisco and other intermediate points is cared for by an arrangement with local draymen and members of the California Transfer and Storage Association and the Draymen's Association of California.

As indicative of the demand for the proposed service, this witness filed a statement as an exhibit indicating the growth of the demand for the character of service proposed to be rendered, an abstract from the statement showing volume of tonnage of shipments moving between points sought herein to be authorized by the Commission's certificate being as follows:

Month	Number of pounds transported
June, 1921	38,540
July, 1921	58,924
August, 1921	70,942
September, 1921	56,848
October, 1921	70,339
November, 1921	81,783
December, 1921	134,131
Total	511,507

During the period above mentioned a total of 647,545 pounds were transported, but of such quantity 136,038 pounds were moved between points other than those proposed in the instant application.

Other witnesses for applicants testified as to the demand for the character of service as proposed by applicants in that it offered advantages considered superior to those offered by shipment by rail, owners

of the property being accommodated by prompt delivery from the point of origin to the ultimate destination; that their experience with the handling of shipments of the class of goods proposed to be transported has been very satisfactory by the trucking method; that the necessary packing and crating necessary to properly protect shipments intended for rail movement and to comply with the regulations of the rail carriers added at least 50 per cent to the original weight of the shipments; and that a considerable expenditure was necessary for the value of the material and labor necessary in the packing and crating of shipments intended for rail movement.

The granting of the desired certificates is protested by the Southern Pacific Company, the Atchison, Topeka and Santa Fe Railway Company, the American Railway Express, the "White Lines" and the San Joaquin Valley Transportation Company.

Witnesses for the Southern Pacific Company and Atchison, Topeka and Santa Fe Railway testified as to the service offered by their respective lines, presented exhibits showing the rates and rules and regulations governing the transportation of the class of shipments sought to be transported by applicants and statements showing time consumed in the transportation of representative shipments, both carload and less than carload. These statements show that on certain selected carloads the Southern Pacific Company transported shipments between San Francisco and Los Angeles in from 1 to 2 days; between Oakland and Los Angeles in 3 days; between San Francisco and Fresno in 1 day; and between Los Angeles and Fresno in 1 day. None of these shipments, however, were of the class of commodities proposed to be handled by the applicants herein, and the time shown covers only the movement by train as there was no information available as to time the shipments were received by the carrier from the consignor or as to the time the shipments were available for receipt by the consignee at destination. A record of less than carload shipments of furniture and household goods was furnished by a witness for protestant, Southern Pacific Company, and is as follows:

Date delivered to carrier	Left	Arrived	Weight of shipment lbs.
Nov. 8, 1921	San Francisco—Nov. 9, 1921	Los Angeles—Nov. 11, 1921	1000
Nov. 10, 1921	San Francisco—Nov. 11, 1921	Los Angeles—Nov. 12, 1921	1310
Nov. 16, 1921	San Francisco—Nov. 17, 1921	Los Angeles—Nov. 18, 1921	1150
Nov. 14, 1921	San Francisco—Nov. 14, 1921	Fresno—Nov. 15, 1921	660
Nov. 16, 1921	San Francisco—Nov. 16, 1921	Fresno—Nov. 17, 1921	705
Nov. 5, 1921	Oakland—Nov. 5, 1921	Fresno—Nov. 6, 1921	270
-----	Oakland—Nov. 4, 1921	Los Angeles—Nov. 7, 1921	175

The Atchison, Topeka and Santa Fe Railway Company, protestant, provides a service from San Francisco by which goods from San Fran-

cisco are ready for delivery at Los Angeles on the morning of the third day following their departure from San Francisco; at Modesto and Merced and Fresno, on the following morning; and at Bakersfield on the morning of the second day.

The American Railway Express Company, protestant, presented evidence as to the number of trains upon which express matter was carried between San Francisco and Los Angeles and intermediate points, there being available eight round trips daily, six via the Southern Pacific Company (three each via the San Joaquin Valley and the coast routes) and two via the Atchison, Topeka and Santa Fe Railway. Messengers are carried on all trains to care for safety and security of shipments while in transit. This protestant, by its tariffs and rules and regulations governing same, carries certain of the classes of goods proposed to be carried by applicants without requiring crating as a protection, such as trunks, beds, bedsteads, floor coverings, folding cots, steamer, camp and opera chairs, mattresses, stools, pianos and organs. Pianos and organs, however, when offered for shipment uncrated are assessed double the first-class rate. Evidence was also introduced as to the equipment available at the terminals of Los Angeles and Oakland and San Francisco for the pick up and delivery of shipments, and as to the free delivery limits in terminal cities and intermediate points along the route.

Protestant, San Joaquin Valley Transportation Company, already holding a certificate of public convenience and necessity over a portion of the route proposed to be served by applicants between Los Angeles and Fresno and intermediate points, objects to the granting of the applications in so far as same refer to the territory now served by this protestant not only as to the character of shipments proposed to be handled by applicants but also other classes of shipments which are now handled by such protestant as a common carrier. It was stipulated at one of the hearings on these matters whereby both applicants agreed that an order of the Railroad Commission if issued, and granting the applications herein sought, could contain a condition that would exclude the handling of all shipments between Los Angeles and Fresno and intermediate points except used household furniture which would include pianos and musical instruments, and when goods were shipped from one owner to another and also when such shipments were not intended for sale or trade and further when the shipments as above classified were not crated, boxed or wrapped. The origin and destination of shipments to be to and from residences only or from or to points where furniture and similar articles had been or were to be

stored by the owner thereof. The acceptance of the foregoing stipulation by counsel for applicants herein eliminated the protest of the San Joaquin Valley Transportation Company.

We will now consider the matter of comparative rates as offered by the applicants herein as against those existing by the regularly authorized rail carriers and the American Railway Express Company. While the rates of both applicants include a number of intermediate points proposed to be served to and from terminals, it will be sufficient to illustrate a comparison of rates as regards the through business proposed to be handled between San Francisco and Los Angeles, the same general comparisons being applicable as regards the intermediate business or for shorter distances out of either terminal. The following is a comparison of rates between San Francisco and Los Angeles:

	Household goods, new or second hand, per 100 lbs.	Trunks and personal effects, per 100 lbs.	Grand	Pianos	Other
Atchison, Topeka and Santa Fe Railway and Southern Pacific Company.	1. c. 1.* 94¢ c. 1.* 66½¢ 1. c. 1.† 117½¢ c. 1.† 66½¢ 1. c. 1.‡ 141¢ c. 1.‡ 75½¢	Same rate as household goods.			
American Railway Express -----	‡ 334¢	334¢	{ crated 334¢ cwt. uncrated 668¢ cwt. \$30 each	334¢ cwt. 668¢ cwt. \$25 each	
Applicant Shull -----	* 520¢	335¢			
Applicant California Highway Express.. {	uncrated* 500¢ crated* 400¢	335¢	\$30 each	\$25 each	

*Indicates released to valuation of \$10 per cwt.

†Indicates released to valuation of \$20 per cwt.

‡Indicates released to valuation of \$50 per cwt.

Carload minimum weight on rail lines 12,000 pounds.

To the freight charges as appearing in the tariffs of the protesting rail carriers must be added the expense of boxing and crating required by their tariff rules and regulations and the expense of cartage from point of origin to the railroad station and from the railroad station to the final point of destination of the shipment. The expense of local drayage in San Francisco on a shipment moving an average distance to the railroad freight station was estimated to range from 35 to 60 cents per cwt. with a probable general average of 50 cents. A similar average cost was thought to prevail in Los Angeles, although the various witnesses had no exact data.

As to the expense of packing and crating for railroad shipment, such expense being necessary on account of the rules and regulations of the railroad carriers, testimony was given by various witnesses and particularly by Mr. Bekins of the Bekins Van and Storage Company operating in San Francisco, Oakland, Fresno and Los Angeles. A number of instances of representative shipments handled by his concern were covered by an exhibit filed of which the following is an

analysis indicating the weight of shipments, the packing charges assessed, the expense of cartage to the railroad station and the freight assessed by reason of the shipment being consolidated in a carload movement:

Analysis of various packing and shipping reports.

	Weight, pounds	Packing charges	Cartage to railroad station	Freight
No. 1 -----	2,208	\$32 25	\$8 00	\$16 55
No. 2 -----	2,842	35 65	16 00	21 35
No. 3 -----	*5,491	71 20	18 50	43 05
No. 4 -----	*3,275	78 35	29 00	26 30
No. 5 -----	*5,429	60 65	34 50	42 50
No. 6 -----	1,274	16 65	12 00	9 55
No. 7 -----	2,028	38 95	16 00	-----

*Includes piano.

To arrive at the cost of delivering these shipments to their ultimate destination there should be added the cartage necessary from the railroad station to the point of destination and possibly some expense for uncrating the shipments and placing them in the residences at destination, which service is proposed to be performed by the applicants herein without extra expense to the shipper or consignee.

A comparison is made below as to the entire expense of moving these shipments between Los Angeles and San Francisco via the proposed lines of the applicants and via the facilities of the rail carriers, plus drayage at each end, and also via the facilities of the American Railway Express Company and in such comparison no allowance is made for the extra weight that would naturally be occasioned by the packing and crating material, such being necessary to comply with the requirements of the railway carriers before acceptance for shipment, and upon which freight charges would be assessed by the rail carriers.

Lot No. 1—

via rail shipment:

Cartage at both terminals.....	\$16 00	
Packing charges	32 25	
Freight charges 2208 lbs. @ 94 cents cwt.....	20 76	\$69 01

via American Railway Express:

Express charges 2208 lbs. @ \$3.34 cwt.....	73 75	
Packing charges	32 25	106 00

via Applicant Shall:

Freight charges 2208 lbs. @ \$5.20 cwt.....		114 82
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via Applicant California Highway Express:

If uncrated 2208 lbs. @ \$5.60 cwt.....		123 65
If crated 2208 lbs. @ \$4.00 cwt.....		88 32

Lot No. 2—

via rail shipment:		
Cartage at both terminals.....	\$32 00	
Packing charges	35 65	
Freight charges 2842 lbs. @ 94 cents cwt.....	26 71	
		\$94 36
via American Railway Express:		
Express charges 2842 lbs. @ \$3.34 cwt.....	94 92	
Packing charges	35 65	
		130 57
via Applicant Shull:		
Freight charges 2842 lbs. @ \$5.20 cwt.....	147 78	147 78
via Applicant California Highway Express:		
If uncrated 2842 lbs. @ \$5.00 cwt.....		159 15
If crated 2842 lbs. @ \$4.00 cwt.....		113 68

Lot No. 3—

via rail shipment:		
Cartage at both terminals.....	\$37 00	
Packing charges	71 20	
Freight charges 5491 lbs. @ 94 cents cwt.....	51 62	
		\$159 82
via American Railway Express:		
Packing charges	71 20	
Express charges 5491 lbs. @ \$3.34 cwt.....	183 40	
		254 60
Add for piano if uncrated 1000 lbs. @ \$3.34 cwt.....		33 40
via Applicant Shull:		
Piano	25 00	
Freight charges 4491 lbs. @ \$5.20 cwt.....	233 53	
		258 53
via Applicant California Highway Express:		
Piano	25 00	
Freight charges 4491 lbs. @ \$4.00 cwt.....	179 64	
		204 64
Add if uncrated 4491 lbs. @ \$1.60 cwt.....		71 86

Lot No. 4—

via rail shipment:		
Cartage at both terminals.....	\$58 00	
Packing charges	78 35	
Freight charges 3275 lbs. @ 94 cents cwt.....	30 79	
		\$167 14
via American Railway Express:		
Packing charges	78 35	
Express charges 3275 lbs. @ \$3.34 cwt.....	109 39	
		177 74
Add for piano if uncrated 1000 lbs. @ \$3.34 cwt.....		33 40
via Applicant Shull:		
Piano	25 00	
2275 lbs. @ \$5.20 cwt.....	118 30	
		143 30
via Applicant California Highway Express:		
Piano	25 00	
If crated 2275 lbs. @ \$4.00 cwt.....	91 00	
		116 00
If uncrated add 2275 lbs. @ \$1.60 cwt.....		36 40

Lot No. 5—

via rail shipment:		
Packing charges	\$60 65	
Cartage at both terminals.....	69 00	
Freight 5429 lbs. @ 94 cents cwt.....	51 03	
		\$180 68

via American Railway Express:		
Packing charges	60 65	
Express charges 5429 lbs. @ \$3.34 cwt.....	181 33	
		241 98
Add for piano if uncrated 1000 lbs. @ \$3.34 cwt.....		33 40
via Applicant Shull:		
Piano	25 00	
Freight 4429 lbs. @ \$5.20 cwt.....	230 31	
		255 31
via Applicant California Highway Express:		
Piano	25 00	
If crated 4429 lbs. @ \$4.00 cwt.....	177 16	
		202 16
If uncrated add 4429 lbs. @ \$1.60 cwt.....		70 86
Lot No. 6—		
via rail shipment:		
Packing charges	\$16 65	
Cartage at both terminals.....	24 00	
Freight 1274 lbs. @ 94 cents cwt.....	11 98	
		\$52 63
via American Railway Express:		
Packing charges	\$16 65	
Express charges 1274 lbs. @ \$3.34 cwt.....	42 55	
		59 20
via Applicant Shull:		
Freight 1274 lbs. @ \$5.20 cwt.....		66 25
via Applicant California Highway Express:		
If crated 1274 lbs. @ \$4.00 cwt.....		50 96
If uncrated add 1274 lbs. @ \$1.60 cwt.....		20 38

On the basis of 50 per cent being added to the weight of shipments by reason of packing and crating material, as testified by witnesses at the hearings, the net charges to be assessed by applicants on the foregoing lots (excluding the weight of pianos which carry a flat charge) would be as follows:

Lot	Applicant	
	Shull	California Highway Express
No. 1	\$76 54	\$82 43
No. 2	98 49	106 06
No. 3	180 69	192 66
No. 4	103 84	109 90
No. 5	178 50	190 31
No. 6	44 20	47 60

As to the matter of free pick-up and delivery limits. As heretofore appearing in this opinion the service performed by the rail lines consists of a station to station service and requires the hauling of goods from the point of origin to the railroad station and a similar haul by local draymen from the terminal station of the railroad to the point of ultimate destination. The free pick-up and delivery service of the American Railway Express Company covers approximately the better portion of the business and residential district of San Francisco and

as regards Los Angeles a free pick-up and delivery within a radius of approximately four miles from the Seventh street and Broadway headquarters of the American Railway Express Company in that city. It is, of course, apparent that no facilities exist for pick-up and delivery of shipments in rural communities as are offered by both applicants herein. Applicant, Shull, proposed a free pick-up and delivery zone in Los Angeles for shipments weighing less than 1000 pounds in a territory bounded on the east by Los Angeles street; on the west by Figueroa street; on the north by First street; and on the south by Washington street. On shipments weighing over 1000 pounds a free pick-up and delivery within the city limits of Los Angeles excepting that the southerly boundary of such limits would be Manchester avenue. In San Francisco a free pick-up and delivery on shipments weighing less than 1000 pounds within a radius of one mile of applicant's office at 539 Turk street, San Francisco. On shipments weighing over 1000 pounds, a free pick-up and delivery within the defined city limits of the city and county of San Francisco. As regards the cities of Berkeley and Oakland a free pick-up and delivery within the defined city limits of such communities on shipments weighing over 1000 pounds, a local transfer charge over the rate to or from Oakland or Berkeley to be added on shipments weighing less than 1000 pounds.

Applicant, California Highway Express, proposes to exact a pick-up and delivery charge at the drayage rate as charged by local city firms in any community when a shipment weighs less than 1000 pounds. In Los Angeles, provided a shipment weighs 1000 pounds or more, free pick-up and delivery will be accorded within a radius of ten miles from the intersection of Seventh street and Broadway in such city; a free pick-up and delivery will be accorded shipments of the same weight within the entire territorial limits of the city and county of San Francisco; and also a similar free pick-up and delivery on shipments as above will be accorded within the territorial limits of any incorporated city through which the proposed route of this applicant would pass.

The matter of storage is also of interest. It frequently happens that consignees are unable to take immediate delivery of their shipments for varying reasons, and therefore the disposition to be accorded such shipments by carriers becomes a matter of public interest and one that should be considered in connection with these applications.

It is the custom of the rail carriers, protestants herein, to allow free time for a period of 48 hours after the first 7.00 a.m. from the date of service of notice to consignee of arrival of freight (exclusive of Sundays and legal holidays). After the expiration of the free time

the storage rates as appearing in the tariffs of protestants are assessed based on the rates per cwt. as appearing in published tariffs. The rail carriers also reserve the option of removing consignments from their warehouse and storing same in a public warehouse at the owner's risk and cost.

The American Railway Express exacts no storage charges from consignees if delivery can not be effected upon arrival of shipments. This company gives free storage on such shipments for a period of six months, holding same in their "on hand" department. At the expiration of the six months period the shipments are sold at public auction to cover the cost of charges accrued against same which are a lien on the shipment in the carrier's favor.

Applicant, Shull, proposes to store shipments at destination for a period of 48 hours after their arrival without charge to consignee and if shipments are not called for within the free time they will be sent to a public warehouse. If it be necessary to unload a shipment at destination for the purpose of storage any delivery thereafter effected by applicant will be charged for at the local transfer rates.

Applicant, California Highway Express, proposes to place uncalled-for shipments in suitable warehouses for storage for account of consignee if same are not accepted within 24 hours after the arrival of shipment at its point of destination.

The only matter now remaining to receive consideration is the matter of rates as proposed by both applicants herein. It is clearly shown from the foregoing statement of expense of transporting various shipments of the character proposed to be handled by applicants that the rates proposed by applicants are excessive for the character of service proposed to be rendered. It is true that an expedited service can be given by the facilities of the applicants herein but the contentions of applicants and their allegations as to the saving of cost to shippers and consignees is not borne out by facts as developed at the hearings on these proceedings. It is true that the shippers or consignees are not required to pay a number of separate bills for crating, packing, local drayage at both terminals in addition to the transportation charges but the public would be called upon to pay such charges in a lump sum to applicants herein and such charges as will be noted above average practically the same, or are in excess of, the charges of the American Railway Express Company and there is nothing before the Commission in this proceeding that indicates that the American Railway Express Company has not the requisite facilities to perform the prompt transportation of shipments, even though crating and packing of same may be necessary, and the expense of such packing and crating

be considered in addition to the regular express charges for the actual transportation. The public is entitled to the facilities offered by applicants herein but at a rate which will be reasonable and we are of the opinion, after a very careful analysis of the rates offered by applicants in comparison with those now existing by the rail carriers and the American Railway Express Company, that the rates of applicants are excessive, unreasonable and should not be authorized by this Commission. The evidence in this proceeding indicates that applicant, California Highway Express, has a contract with the California Transfer and Storage Association, said contract having been executed under date of June 25, 1921, for a two-year period and it is understood that the provisions of this contract will be applicable if the application herein is granted. This contract provides that all the members of the California Transfer and Storage Association shall be constituted agents of the California Highway Express and for their services as agents such members of the association are to receive from the California Highway Express a specified amount per 100 pounds on all shipments secured by the members of the association and the amount per 100 pounds specified for shipments moving between the more distant terminals (Los Angeles and San Francisco) is specified as \$1.60 per cwt. All points proposed to be served by applicant, California Highway Express, are also scheduled as to the rate per cwt. that will accrue to the members of the association for acting as agents and soliciting business for the applicant, California Highway Express. Inasmuch as no service whatsoever other than the solicitation of shipments is covered by this agreement we regard the agreement as one against public policy and one that should not receive the approval or sanction of this Commission in so far as it affects a proposed schedule of rates for any carrier proposing to operate under the jurisdiction of this Commission in the transportation of goods by motor truck. The through rate between Los Angeles and San Francisco as proposed by applicant, California Highway Express, is \$5.60 per cwt. on household goods, etc., uncrated; \$4 per cwt. on similar articles when crated; \$3.35 per cwt. on trunks and personal effects; and \$25 each on ordinary pianos and \$30 each on grand pianos. Out of these amounts per cwt. the California Highway Express is and would be required to pay to the members of the California Transfer and Storage Association an amount of \$1.60 per 100 pounds for the alleged services as agents of the members of the association. This would therefore make the net amount received by applicant, California Highway Express, for the transportation service rendered by it (and which includes all the actual service picking up the shipments at point of origin and delivering same

at ultimate destination) the sum of \$4 per cwt. for household goods uncrated; \$2.40 per cwt. for household goods when crated; \$1.75 per cwt. for trunks and household effects and on pianos assuming for ready comparison a weight of 1000 pounds to each piano an amount of \$9 for an ordinary piano and \$14 for a grand piano. It is our opinion that applicant herein should not be permitted, as a matter of public policy, to pay a greater amount than 10 per cent of its scheduled rates to anyone in reimbursement of their services as agents particularly in view of the character of service proposed to be rendered by such agents and as appears from the evidence in this proceeding. The movement of household goods, personal effects, etc., is usually brought to the attention of transfer, express and storage companies directly by the prospective shipper who investigates the methods by which his property can be moved and naturally endeavors to secure the most favorable rate therefor. This business requires little or no solicitation and it is unfair to the prospective patrons of the applicants herein to pay any such unnecessary amount as compensation for agents as has been proposed in these proceedings. We are of the opinion that the services proposed by applicant herein will meet a public convenience and necessity provided such services are made available for the public at just and reasonable rates and we therefore find as a fact that a just and reasonable rate for the transportation of the classes of goods proposed to be hauled by applicants herein and between San Francisco and Los Angeles is as follows:

Household goods, etc.—uncrated	\$4 40 per cwt.
Household goods, etc.—crated	2 64 per cwt.
Trunks and personal effects	2 00 per cwt.
Pianos—ordinary	15 00 each
Pianos—grand	17 50 each

Other rates to intermediate points should be prepared on a graduated scale in consideration of mileage covered with the basic rate as that hereinabove prescribed between the terminals of Los Angeles and San Francisco.

ORDER.

Public hearings having been held on the above entitled applications, the matters having been duly submitted, the Commission having given careful consideration to the evidence and exhibits herein and being now fully advised.

The Railroad Commission hereby declares, that public convenience and necessity require the operation by E. H. Shull of a freight truck service as a common carrier of household goods (new or second-hand furniture, personal effects, trunks and pianos) between Los Angeles and Oakland, Berkeley and San Francisco via the San Joaquin Valley route and serving as intermediates the communities of Famoso, McFarland, Delano, Pixley, Tipton, Tulare, Goshen Junction, Kingsburg,

Selma, Fowler, Fresno, Herndon, Madera, Chowchilla, Athlone, Merced, Atwater, Livingston, Turlock, Modesto, Manteca, Tracy, Livermore, Lebec, Baileys, Saugus, Newhall and San Fernando, provided, however, that shipments will be handled only where the point of origin or destination is Los Angeles, Oakland, Berkeley or San Francisco and provided further that no local shipments will be handled between Los Angeles and Bakersfield or points intermediate thereto, and provided further that in accordance with stipulation entered into at the hearings of this proceeding that no shipments will be handled between Los Angeles and Fresno and points intermediate thereto excepting that such shipments consist of used household furniture (which shall include pianos and musical instruments) which are shipped from owner to owner, are not intended for sale or trade, and when such shipments are not crated, boxed or wrapped. The origin and destination of shipments covered by this stipulation to be at residences only or to or from residences with the point of origin or destination as a warehouse or storage point in which shipments have been or are to be stored. The schedule of rates to be assessed by the grantee of this certificate for the transportation of property as herein authorized to be in accordance with the schedule hereinafter appearing in this order.

The Railroad Commission hereby declares that public convenience and necessity requires the operation by California Highway Express, a corporation, of a motor truck service for the transportation of household and office furniture and equipment, baggage and personal effects and household goods (including pianos) between Los Angeles and San Francisco and the following intermediate points: Manteca, Modesto, Turlock, Livingston, Atwater, Merced, Athlone, Chowchilla, Modesto, Herndon, Fresno, Fowler, Selma, Kingsburg, Traver, Goshen Junction, Tulare, Tipton, Pixley, Delano, McFarland, Famoso, Bakersfield, Lebec, Saugus, Newhall, San Fernando, Tracy, Livermore, Hayward and Oakland; also all territory within twenty-five miles of the main highway passing through the above mentioned communities excepting, however, that authority is not hereby granted for the handling of business locally as between communities situated in the territory between San Francisco and Manteca or between Los Angeles and Bakersfield and provided further that in accordance with stipulation entered into at the hearings of this proceeding that no shipments will be handled between Los Angeles and Fresno and points intermediate thereto excepting that such shipments consist of used household furniture (which shall include pianos and musical instruments) which are shipped from owner to owner, are not intended for sale or trade, and when such shipments are not crated, boxed or wrapped. The origin

and destination of shipments covered by this stipulation to be at residences only or to or from residences with the point of origin or destination as a warehouse or storage point in which shipments have been or are to be stored. The schedule of rates to be assessed by the grantee of this certificate for the transportation of property as herein authorized to be in accordance with the schedule hereinafter appearing in this order.

The rates herein authorized to be published by applicants herein for the service proposed to be rendered shall be as follows:

Between San Francisco and Los Angeles.

Household goods, etc.—uncrated	\$1 40 per cwt.
Household goods, etc.—crated	2 64 per cwt.
Trunks and personal effects	2 00 per cwt.
Pianos—ordinary	15 00 each
Pianos—grand	17 50 each

Other rates to intermediate points should be prepared on a graduated scale in consideration of mileage covered with the basic rate as that hereinabove prescribed between the terminals of Los Angeles and San Francisco.

No authority is hereby conveyed for transportation of shipments between Los Angeles and San Francisco and intermediate points over any portion of the so-called Coast Route through shipments to be confined to the San Joaquin Valley Route as hereinabove outlined.

It is hereby ordered, that the applications herein for certificates of public convenience and necessity are granted subject to the following conditions:

1. Applicants herein shall within fifteen (15) days from the date of this order file with the Railroad Commission a written acceptance of the terms of this order and the certificates thereby granted; and shall within thirty (30) days from the date of this order file with the Railroad Commission their complete schedules of tariff rates and rules and regulations governing same in accordance with the provisions of this Commission's General Order No. 51; and shall further file with this Commission a statement stating the date upon which the service proposed to be rendered will be established and operation commenced. Failure to file with the Railroad Commission as hereinabove ordered the acceptance of the terms of this order and certificate, the schedules of tariff rates, rules and regulations; or of the date upon which operation will commence will, unless otherwise ordered by supplemental order of this Commission, cancel and render void the order herein without further action by the Commission.

2. The rights and privileges hereby granted may not be assigned, leased, transferred, hypothecated or sold nor operation suspended or discontinued unless the written consent of the Railroad Commission to such assignment, lease, transfer, hypothecation, sale, suspension or discontinuance of operation has first been secured.

3. No vehicle may be operated under the authority conferred by this certificate unless such vehicle is owned by the applicants herein or is leased by such applicants under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this eighth day of February, 1922.

DECISION No. 10064.

IN THE MATTER OF THE APPLICATION OF R. A. ROSE OPERATING UNDER THE NAME OF FAIR OAKS ELECTRIC COMPANY, FAIR OAKS, CALIFORNIA, AND FAIR OAKS ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE SALE BY SAID R. A. ROSE TO FAIR OAKS ELECTRIC COMPANY, A CORPORATION, OF THE BUSINESS AND PROPERTY OWNED AND OPERATED BY SAID R. A. ROSE UNDER THE NAME OF "FAIR OAKS ELECTRIC COMPANY."

Application No. 7518.

Decided February 8, 1922.

Elliott and Atkinson, by *Frank F. Atkinson*, for Applicant.

BY THE COMMISSION.

OPINION.

In this application the Railroad Commission is asked to make its order authorizing the transfer of all the electric properties and business now owned by R. A. Rose and operated under the fictitious name of Fair Oaks Electric Company to Fair Oaks Electric Company, a corporation, and the issue of stock and assumption of indebtedness by the corporation.

A public hearing was held before Examiner Satterwhite in San Francisco on February 6, 1922.

The record shows that R. A. Rose since 1913 has been engaged in the business of distributing electric energy for lighting and power purposes in and about Fair Oaks Townsite, Sacramento County, serving approximately 150 consumers. He reports the assets and liabilities of his electric business as of January 1, 1922, as follows:

		<i>Assets.</i>
Fixed capital:		
Poles and fixtures	-----	\$6,034 99
Overhead system	-----	3,470 45
Transformers and devices	-----	3,300 77
Electric services	-----	1,561 32
Meters	-----	1,205 45
Total	-----	\$15,671 98
Less depreciation	-----	1,951 10
Net fixed capital	-----	\$13,720 88

Net fixed capital brought forward.....	\$13,720 88
Cash	89 96
Accounts receivable	824 92
Materials and supplies	163 75
Tools and truck	395 00
Cost of franchise	120 00
Total assets	\$15,314 51
<i>Liabilities.</i>	
Notes to Fair Oaks bank	\$5,750 00
Notes to Western Electric Company	670 58
Accounts payable	93 93
Total liabilities	\$6,514 51
Net worth	8,800 00

The above figures represent according to the testimony the historical cost of the properties, exclusive of any allowance for intangible property items.

The annual reports of R. A. Rose, which have been filed with the Commission show gross revenues for 1920 of \$4,567.43 and for 1919 of \$3,047.37. For 1920 his net operating revenues were \$721.39 and for 1919, \$247.07. After paying interest on notes, he reports a surplus for 1920 of \$371.39 and a loss for 1919 of \$110.63.

The testimony of R. A. Rose shows that he is in need of additional funds to make extensions, additions and betterments to his electric properties and that he is of the opinion that the best method of obtaining money is by the sale of his properties to a corporation and the issuance of bonds by the corporation. He testified that should the application be granted, it is the intention of the company to apply to the Railroad Commission for permission to execute a mortgage and to issue \$10,000 of bonds. Fair Oaks Electric Company was incorporated on or about January 23, 1922. The company has an authorized capital stock of \$25,000 divided into 250 shares of the par value of \$100 each. The application shows that the corporation has offered to purchase all of the electric properties, assets and franchises now owned by R. A. Rose and that it proposes, in exchange for such properties to issue \$10,000 of stock to R. A. Rose, and to assume the payment of indebtedness outstanding against the system as of January 1, 1922, which indebtedness is reported at \$6,514.51.

Reference is here made to Decision No. 8223, dated October 11, 1920, (Vol. 18, Opinions and Orders of the Railroad Commission of California, p. 1012) in which decision the Commission considered the value of the electric properties of R. A. Rose for rate-fixing purposes.

We believe that this application should be granted subject to the conditions of the following order:

ORDER.

Application having been made to the Railroad Commission for an order authorizing the transfer of properties, the assumption of indebt-

edness and the issue of stock, a public hearing having been held and it appearing to the Railroad Commission that the application should be granted;

It is hereby ordered, that R. A. Rose be and he is hereby authorized to sell, transfer and assign to Fair Oaks Electric Company, a corporation, all of the electric properties, assets, franchises and business now owned by him and operated under the fictitious name of Fair Oaks Electric Company, such transfer to be upon the terms and conditions set forth in applicants' Exhibit "D."

It is hereby further ordered, that Fair Oaks Electric Company, a corporation, be and it is hereby authorized to purchase and acquire the properties herein authorized to be sold, transferred and assigned and in payment therefor to issue \$10,000 of its capital stock to R. A. Rose, and to assume the payment of indebtedness against the system up to \$6,514.51.

The authority herein granted is subject to the following conditions:

1. The price at which the properties are herein authorized to be transferred shall not be binding upon this Commission or any court or other body having jurisdiction as a measure of the value of the properties for rate-fixing or for any purpose other than the transfer herein authorized.

2. Fair Oaks Electric Company shall file with the Commission a verified copy of the deed conveying the properties herein authorized to be transferred, such copy to be filed within thirty days after execution.

3. Applicant shall keep such record of the issue and disposition of the stock herein authorized as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

4. The authority herein granted will apply only to such stock as may be issued and delivered, and to such transfer of properties as may be made on or before April 30, 1922.

Dated at San Francisco, California, this eighth day of February, 1922.

DECISION No. 10066.

IN THE MATTER OF THE APPLICATION OF ATTANASIO CONTE FOR
PERMISSION TO SELL WATER.

Application No. 7291.

Decided February 8, 1922.

WATER UTILITY—CERTIFICATE—RATES.—In granting applicant certificate, it is found out that the system, installed to aid in the sale of real estate, is overbuilt and the revenues will not yield a full return.

Attanasio Conte, in propria persona.

BY THE COMMISSION.

OPINION.

In the above application Attanasio Conte asks permission to sell water in the Attanasio Conte tract, a subdivision of tract 194 of the property of the Lankershim Ranch and Water Company, and also in the west half of the west half of the south half of lot 187 of the property of the Lankershim Land and Water Company, as per map filed in book 31, page 39, miscellaneous records of Los Angeles County, in accordance with the rates and rules contained in the application.

A public hearing was held in the above entitled matter at Los Angeles, before Examiner Williams, of which all interested parties were notified and given an opportunity to be present and to be heard.

This system consists of a 10-inch drilled well, 102 feet deep, in which is located a three-stage deep-well pump, electrically operated. The water is pumped into an elevated tank of 10,000 gallons capacity, and distributed through 300 feet of 4-inch and 950 feet of 3-inch galvanized standard screw pipe with six metered services.

Mr. M. I. Reed, one of the Commission's hydraulic engineers, submitted a report showing the estimated cost of the system to be \$5,045 and a replacement annuity calculated by the sinking fund method amounting to \$92. Maintenance and operating expense will amount to not less than \$300 per year

No one appeared to protest the granting of the certificate, the rates or rules and regulations contained herein.

The system was installed to aid in the sale of real estate, is largely overbuilt at the present time, and the revenues from the sale of water will fall far short of total annual charges. However, the rates as set forth in the following order are reasonable, under the circumstances, and will produce a revenue that will do substantial justice to both the applicant and the consumers:

ORDER.

Attanasio Conte having made application as entitled above, a public hearing having been held thereon and the matter having been submitted:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require and will require Attanasio Conte to operate a water system for the purpose of supplying water for domestic purposes to the Attanasio Conte tract, a subdivision of tract 194 of the property of the Lankershim Ranch and Water Company, and the west half of the west half of the south half of lot 187 of the property of the Lankershim Land and Water Company, as per map recorded in book 31, page 39 of miscellaneous records of Los Angeles County.

It is hereby ordered, that Attanasio Conte be and he is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order the following schedule of rates to be charged for all water delivered to his consumers, to be effective for all water delivered subsequent to February 28, 1922, or the meter-reading period next preceding that date:

METER RATES.

Monthly minimum charges:

$\frac{1}{8}$ -inch meter -----	\$1 50
$\frac{3}{4}$ -inch meter -----	1 50
1-inch meter -----	1 75

For all water used:

800 cubic feet or less per month -----	\$1 50
For each additional 100 cubic feet -----	10

It is hereby further ordered, that Attanasio Conte be and he is hereby directed to file with this Commission within thirty (30) days from the date of this order, rules and regulations to govern relations with his consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this eighth day of February, 1922.

DECISION No. 10067.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TELEPHONE AND LIGHT COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING SAID CALIFORNIA TELEPHONE AND LIGHT COMPANY TO ISSUE, SELL AND DELIVER TO THE FACE AMOUNT OF FIFTY THOUSAND DOLLARS ITS FIRST MORTGAGE SIX PER CENT GOLD BONDS MATURING APRIL 1, 1943.

Application No. 7501.

Decided February 8, 1922.

Leo H. Susman, for Applicant.

BENEDICT, *Commissioner*.

OPINION.

California Telephone and Light Company asks permission to issue and sell, at not less than 90 per cent of face value, plus accrued interest, \$50,000 of its first mortgage six per cent gold bonds due April 1, 1943.

Applicant in Exhibit No. 1 and Exhibit No. 2 reports that during November and December, 1921, it expended the sum of \$51,011.79 for additions and betterments. The Commission by an order in Application No. 7385 authorized applicant to use the proceeds from the sale

of \$51,600 of six per cent cumulative preferred stock to pay in part for these expenditures.

Under the Commission's order the company is authorized to sell the stock at not less than \$80 per share. If sold at this price the company will realize from the sale of the stock \$41,280.

In its Exhibit No. 3 applicant reports that it has incurred, or will have to incur, during January, February and March of 1922, an expenditure of \$39,300 for additions and betterments. This expenditure is distributed to applicant's districts as follows:

Sonoma district -----	\$8,850 00
Lakeport district -----	6,300 00
Healdsburg-Cloverdale district -----	6,475 00
Santa Rosa-Russian River district -----	17,675 00
Total -----	\$39,300 00

The exhibit shows the estimated expenditures in greater detail.

W. P. Ferguson, applicant's general manager, testified that it was necessary for the company to incur the foregoing expenditures in order to meet the demands for telephone, electric light and power service.

It appears from the record in this proceeding that applicant has made arrangements for the sale of the \$50,000 of bonds at 91 and accrued interest. The proceeds realized from the sale of the stock and bonds referred to in this opinion will be approximately equal to the company's actual or estimated construction expenditures during November and December of 1921 and during January, February and March of the current year.

I herewith submit the following form of order:

ORDER.

California Telephone and Light Company having applied to the Railroad Commission for permission to issue and sell \$50,000 of its first mortgage bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that California Telephone and Light Company be and it is hereby authorized to issue and sell for cash, at not less than 91 per cent of their face value, \$50,000 of its first mortgage 6 per cent gold bonds due April 1, 1943, and use the proceeds to finance in whole or in part the cost of the additions and betterments reported in Exhibits "1," "2" and "3," and through such financing reimburse its treasury in part on account of surplus earnings that may have been expended in paying for such additions and betterments.

The authority herein granted is subject to further conditions as follows:

1. Only such expenditures as are properly chargeable to capital account, in accordance with the classification of accounts prescribed or adopted by the Commission, may be financed through the issue of the bonds herein authorized. Any proceeds not used for such purpose may be expended by applicant only for such purposes as are hereafter authorized by the Commission.

2. Applicant shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

3. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$50.

4. The authority herein granted will apply only to such bonds as may be issued, sold and delivered on or before June 1, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eighth day of February, 1922.

DECISION No. 10069.

THE CITY OF HYDE PARK, A MUNICIPAL CORPORATION,
vs.
THE ATCHISON, TOPEKA AND SANTA FE RAILWAY, A CORPORATION.

Case No. 1663.

Decided February 8, 1922.

A. G. Payne, for Plaintiff.
M. W. Reed, for Defendant.

BY THE COMMISSION.

OPINION.

In this proceeding the city of Hyde Park complains that the Atchison, Topeka and Santa Fe Railway, whose line passe through the city of Hyde Park, has not opened Pearl street and Mineral avenue across the railroad although these streets are shown on the original plat of Hyde Park as it was laid out, platted and recorded in 1887, prior to the construction of the railroad.

The defendant, in answer to the complaint, alleges that the railroad was not extended over either Pearl street or Mineral avenue for the reason that these streets were not open, laid out, used, occupied, or in any way improved as streets or highways and that the dedication of the streets and avenues named in this plat was not accepted by the public until a long time subsequent to 1887.

A public hearing on this complaint was held in the city of Hyde Park before Examiner Williams, January 13, 1922.

The city of Hyde Park, a municipal corporation of the sixth class, was incorporated May 12, 1921, and includes the territory shown on a map of Hyde Park that was recorded in January, 1887, in book 14, page 21, of miscellaneous records in the office of the recorder of the county of Los Angeles.

The portion of Hyde Park that has been subdivided consists of blocks approximately 377 feet wide by 840 feet long, the longer dimension of the blocks lying in a north and south direction. The Atchison, Topeka and Santa Fe Railway passes through the city of Hyde Park in a southwesterly and northeasterly direction and there are three open and used crossings over the tracks within the city limits. One of these, Mesa drive, is the principal business street of the city and is also one of the main north and south thoroughfares of this portion of the county. The other two crossings are at Mountain avenue and Cypress avenue, both of which are north and south streets and are located approximately 400 and 1200 feet, respectively, to the east of Mesa drive.

Redondo boulevard is another important north and south thoroughfare in this portion of the county and lies approximately 1200 feet to the west of Mesa drive. Redondo boulevard, however, does not cross the railroad but turns at the railroad and runs parallel to it in a southwesterly direction. The Los Angeles Railway's Inglewood line passes through the city of Hyde Park on Mesa drive as far as the Santa Fe tracks and thence extends southeasterly on private right of way lying parallel and adjacent to the track of the defendant.

The two streets which the city of Hyde Park now desires to have opened across the railroad are Pearl street and Mineral avenue, both of which are north and south streets located approximately 400 feet and 800 feet, respectively, west of Mesa drive. These two latter streets are actually open for public use and travel up to the two railroads and the real purpose of the present proceeding is to obtain permission to have these two streets constructed across the Atchison, Topeka and Santa Fe track.

The evidence indicates that the territory lying along Pearl street and Mineral avenue along the railroad is but sparsely settled, there being only 15 to 20 residences constructed and all of this territory actually has an outlet to Mesa drive by means of Pine street, or Lake street, which are east and west streets located south of the railroad and which intersect Mineral avenue, Pearl street and Mesa drive.

Considerable testimony was offered to show that, by the construction of Pearl street and Mineral avenue across the railroad property values along these streets south of the railroad would be materially increased. A considerable portion of this territory is, however, so situated topographically that its growth will be naturally retarded unless quite expensive improvement work is undertaken, and the two streets for which crossings are requested thus would serve only a limited section south of the railroad. The evidence therefore shows that there does not now exist sufficient public necessity and convenience to justify the installation of these crossings located, as they are, only 400 and 800 feet, respectively, from the main thoroughfare of the town to which access is desired. It therefore appears that the relief sought in this complaint should be denied on the following grounds:

1. The territory south of the defendant's track to be benefited by the installation of the crossings sought is but sparsely settled and therefore sufficient public necessity and convenience does not at this time exist.

2. That the territory for which relief is desired actually has an outlet to the main thoroughfare of the city of Hyde Park by means of Pine street or Lake street.

3. That the granting of permission to construct these streets across the defendant's tracks would not give the relief desired as it would also be necessary to construct the streets across the tracks of the Los Angeles Railway, which latter corporation was not a party to this proceeding and had no notice thereof. It should be noted, however, that were the matter of constructing Pearl street and Mineral avenue over the Los Angeles Railway also before the Commission the first two reasons noted above for denying the relief prayed for in this proceeding would also apply as to crossing of the Los Angeles Railway by these two streets.

ORDER.

The city of Hyde Park having filed a complaint against the Atchison, Topeka and Santa Fe Railway wherein the complainant prays that this Commission order the defendant to open Pearl street and Mineral avenue over the right of way and track of the defendant, a public hearing having been held, the Commission being apprised of

the facts and the matter being under submission and ready for decision;

It is hereby ordered, that the relief prayed for in this proceeding be and it is hereby denied.

Dated at San Francisco, California, this eighth day of February, 1922.

DECISION No. 10070.

IN THE MATTER OF THE APPLICATION OF LAWNDALE LAND AND WATER COMPANY, TO INCREASE ITS SERVICE RATES.

Application No. 6851.

Decided February 8, 1922.

WATER UTILITY—OVERBUILT SYSTEM—RATES.—It is held that to allow rates to yield a full return on an overbuilt system, would be an undue burden on present consumers.

Charles P. Ward, for Applicant.

Thomas H. Fillmore, Chairman of Protestants' Committee, for Protestants.

BY THE COMMISSION.

OPINION.

Lawndale Land and Water Company asks for authority to increase rates for water delivered to consumers in and in the vicinity of Lawndale, Los Angeles County, alleging in effect that its present revenues are not sufficient to provide for maintenance and operating expense, depreciation, and a reasonable return upon its investment.

A public hearing in this matter was held at Los Angeles, before Examiner Williams, of which all interested parties were notified and given an opportunity to be present and to be heard.

This system supplies water for domestic and irrigation purposes to approximately 405 consumers. The system consists of a 12-inch well with a total depth of 542 feet, a vertical centrifugal pump driven by a 50-horsepower electric motor, a horizontal centrifugal pump actuated by a 15-horsepower electric motor, three storage tanks of a combined capacity of 250,000 gallons, and approximately 118,000 feet of distribution pipe lines ranging in size from one and one-half to six inches in diameter. The system is practically all metered.

The present rates charged by the utility are as follows:

Domestic Rates.

Minimum monthly rate, which entitles consumer to 750 cubic feet.....\$1 25
For all water use in excess of 750 cubic feet per month, per 100 cubic feet 10

Special Rate No. 1.

Minimum monthly rate, which entitles consumer to 2333 cubic feet.....\$2 00
For all water use in excess of 2333 cubic feet per month, per 100 cubic feet 075

Special Rate No. 2.

Minimum monthly rate, which entitles consumer to 4000 cubic feet.....\$3 00
 For all water use in excess of 4000 cubic feet per month, per 100 cubic feet 075

A few consumers are supplied at a flat rate of \$1.50 per month.

The application in this matter shows a book value of the plant amounting to \$103,345; maintenance and operating expense for 1920 was indicated as \$5,002; and depreciation, computed by the straight-line method, was given as \$1,866. Applicant did not, however, at the hearing, urge the use of these sums for rate-fixing purposes.

Mr. F. H. Van Hoesen, one of the Commission's hydraulic engineers, submitted a report, based upon an investigation of the system, which sets forth an estimated original cost of the used and useful portions of the property amounting to \$70,606; a depreciation annuity computed by the sinking fund method of \$1,252; and an estimate of reasonable maintenance and operating expense for the future in the sum of \$4,506. These estimates were not questioned at the hearing and as they appear reasonable they will be used for the purpose of this proceeding.

A summary of the annual charges as indicated above is as follows:

Return at 8 per cent on \$70,606	\$5,648 00
Depreciation annuity	1,252 00
Maintenance and operating expense	4,506 00
Total.....	\$11,406 00

The operating revenue for 1920 was \$5,585, and for the first nine months of 1921 amounted to \$5,435. Although a substantial growth in business is thus indicated it is apparent that the utility is entitled to some increase in rates. However, the testimony shows that the system is somewhat overbuilt, and the establishment of a rate which would result in revenues equal to the full amount of the foregoing annual charges would, therefore, be an undue burden upon the present consumers. The schedule of rates set out in the accompanying order is designed to yield sufficient revenue to cover maintenance and operating expense, depreciation annuity, and some return upon the investment.

ORDER.

Lawndale Land and Water Company having made application as entitled above, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that the rates now charged by Lawndale Land and Water Company for water delivered to consumers in Lawndale and vicinity are unjust and unreasonable in so far as they differ

from the rates herein established, and that the rates herein established are just and reasonable rates to be charged for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that Lawndale Land and Water Company be and the same is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order, the following schedule of rates to be charged for water delivered to its consumers in Lawndale and vicinity, effective for all water delivered subsequent to February 28, 1922:

METER RATE SCHEDULE.

Monthly minimum charges:

$\frac{1}{8}$ -inch meter	-----	\$1 25
$\frac{1}{4}$ -inch meter	-----	1 50
1 -inch meter	-----	2 00
1 $\frac{1}{4}$ -inch meter	-----	2 50
2 -inch meter	-----	3 00
3 -inch meter	-----	5 00

Monthly rates for water consumed:

From 0 to 500 cubic feet, per 100 cubic feet	-----	\$0 25
From 500 to 1000 cubic feet, per 100 cubic feet	-----	20
From 1000 to 5000 cubic feet, per 100 cubic feet	-----	15
Over 5000 cubic feet, per 100 cubic feet	-----	12

MONTHLY FLAT RATE SCHEDULE.

Residences of not over 5 rooms, including bath and toilet, occupied by a single family	-----	\$1 50
For each additional room	-----	10
For each horse or cow	-----	20
For each private garage, not more than one automobile	-----	25
For each additional automobile	-----	15
Sprinkling or irrigation of lawns, shrubbery or garden, for each square yard of surface actually irrigated	-----	005
All other uses to be charged for at the meter rates.		
Meters will be installed at the option of either the consumer or the utility.		

It is hereby further ordered, that Lawndale Land and Water Company be and the same is hereby directed to file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern relations with consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this eighth day of February, 1922.

DECISION No. 10071.

CITY OF SAN BRUNO, A MUNICIPAL CORPORATION,
vs.
PENINSULA RAPID TRANSIT COMPANY, A CORPORATION.

Case No. 1685.

Decided February 8, 1922.

AUTOMOBILE CARRIER—BLANKETING OF FARES—DISCRIMINATION.—When a fare in and of itself is not excessive, discrimination can not be urged against blanketing. The practice of including many points within the same group or blanket is frequently followed by transportation companies and operates to the convenience of both the public and the carrier.

J. F. Davis, for the City of San Bruno.

W. A. Pierson, for Peninsula Rapid Transit Company.

BY THE COMMISSION.

OPINION.

This is an action by the city of San Bruno, a municipal corporation, through its board of trustees, alleging that the one-way passenger fares between the city of San Francisco and the city of San Bruno, and between the city of San Bruno and the city of Burlingame maintained by the Peninsula Rapid Transit Company, are disproportionate and should be equalized.

Defendant, in its answer, denies that the fares are disproportionate, but avers that they are just and reasonable.

A hearing was held in San Francisco January 18 before Examiner Geary, and the matter is now ready for an opinion and order.

Notwithstanding general publicity of the hearing by publication of notices in the daily press, no one appeared in support of the complainant's contention. No testimony was introduced by complainant and, so far as the city of San Bruno is concerned, the matter was submitted upon a mere statement of its attorney that the complaint set forth the justification upon which readjustment of the fares is based.

The passenger fares at all points between San Francisco and San Bruno is 20 cents. The same fare of 20 cents applies between San Bruno and Burlingame and these are the fares complainant alleges are disproportionate and unreasonable.

The present passenger fares became effective November 25, 1920, by authority of this Commission's Decision No. 8358, in Application No. 6177. It was stipulated that all of the testimony and exhibits presented to the Commission in Application No. 6177 should be made a part of the instant proceeding. The Commission based its conclusions in Decision No. 8358 upon a most thorough investigation of the financial condition of the Peninsula Rapid Transit Company, which investigation showed conclusively that the company had been operating

at a loss. In granting the increases in fares the Transit Company was required to submit to the Commission, monthly, for six months, beginning December 1, 1920, statements of the net results; these statements showed a net loss as of May 31, 1921, of \$19,808.26. This included operating expenses, taxes, depreciation and all other elements of expense.

A statement was presented in the instant proceeding giving the number of passengers carried in the entire zone from San Francisco to and including Millbrae, where the 20-cent fare is in effect, which showed that only an average of $2\frac{1}{3}$ passengers are carried locally on each trip, indicating but little demand in that territory for the automobile service.

The Market Street Railway Company operates in competition with the Transit Company with lower fares in effect; the fare from San Francisco to San Bruno is 15 cents as compared with the automobile fare of 20 cents, while the fare from San Bruno to Burlingame is 10 cents as compared with the Transit Company's fare of 20 cents.

The defendant contends there is no demand for its services and that to reduce the 20-cent fare in the blanketed zone between Millbrae and San Francisco, or between San Bruno and Burlingame would create a financial loss and would not redound to the benefit of the traveling public.

Some reference was made to the blanketing of the fare, but no testimony was given to show that the fare in and of itself is excessive. The practice of including many points within the same group or blanket is frequently indulged in by transportation companies and operates to the convenience of both the public and the carrier.

We can see no reason why the fares in question should be disturbed at this time. The testimony in this proceeding clearly indicates that there is no public demand for the automobile service between San Francisco and San Bruno or between San Bruno and Burlingame for the reason that the Market Street Railway Company now maintains a 10-minute electric car schedule at fares much lower than those charged by the Transit Company.

After consideration of the evidence in this proceeding, we find that the complaint has not been sustained; first, because no showing was made that the fares in and of themselves are excessive and secondly, it has not been shown that a public demand or necessity exists for the automobile service. The complaint will be denied.

ORDER.

The city of San Bruno, a municipal corporation, having filed its application for readjustment of the passenger fares of the Peninsula

Rapid Transit Company, a public hearing having been held, and the Commission being fully advised in the premises;

It is hereby ordered, that this application be and the same is hereby denied.

Dated at San Francisco, California, this eighth day of February, 1922.

DECISION No. 10072.

IN THE MATTER OF THE APPLICATION OF LAUREL CANYON LAND COMPANY, FOR AUTHORITY TO INCREASE RATES CHARGED FOR WATER.

Application No. 7077.

Decided February 8, 1922.

WATER UTILITY—SHORTAGE OF SUPPLY—METERS.—The Commission points out that in the past two years its hydraulic engineers have been called upon frequently to investigate water shortage upon this system and the evidence shows that the water development has about reached its limit. To prevent waste it is held advisable completely to meter the system without delay.

Fred Mansur, for Applicant.

By THE COMMISSION.

OPINION.

This is an application for authority to increase rates for water supplied to consumers by Laurel Canyon Land Company, owner of a small water system which furnishes water for domestic purposes in and in the vicinity of Laurel Canyon, Los Angeles County.

It is alleged in effect that the present rates are unreasonably low and that water is being furnished at a great loss to applicant.

The Commission is asked to authorize a rate of 50 cents per 1000 gallons, with a monthly minimum of \$2 per consumer, and a flat rate of \$2 per month with the right to install meters at any time.

A public hearing was held at Los Angeles, before Examiner Williams, of which all interested parties were notified and given an opportunity to be present and to be heard.

The water supply for this system is obtained from collecting tunnels and springs and is pumped into a storage reservoir of approximately 200,000 gallons capacity. The water is then pumped into the mains and the surplus flows into regulating tanks located at a high elevation. The distribution system consists of 13,700 feet of 1½, 2 and 3-inch pipe supplying 65 service connections, of which 19 are metered.

The present rates charged by the utility are as follows:

Flat Rates.

Ten dollars per annum for each house and lot of 50 feet frontage or less, and ten cents per front foot per annum for the additional lot frontage owned by the property owner supplied.

Meter Rates.

Monthly minimum	\$2 00
First 10,000 gallons, per 1000 gallons.....	20
Over 10,000 gallons, per 1000 gallons.....	16

Exhibit "B" attached to the application shows a book value of the property amounting to \$20,881. Operating expense for the twelve months period ending July 1, 1921, was shown as \$2,042, with an estimate for a future additional cost of \$1,330 for the operation of a recently installed supplementary pumping unit. Operating revenues for the same period amounted to \$1,095.

Mr. F. H. Van Hoesen, one of the Commission's hydraulic engineers, submitted a report based upon an investigation of the system, showing an estimated original cost of the plant exclusive of real estate amounting to \$9,183. Depreciation annuity computed by the sinking fund method was given as \$161, and reasonable maintenance and operating expense as \$2,390 per year.

The testimony indicates that \$5,000 is a reasonable value for the lands used in the production and distribution of the utility's water supply.

Annual charges based upon the foregoing items are as follows:

Return at 8 per cent on \$14,183.....	\$1,135 00
Depreciation annuity	161 00
Maintenance and operating expense.....	2,390 00
Total	\$3,686 00

Operating revenue for the year 1920 was \$1,023 and it is apparent that the utility is entitled to an increase in rates. The evidence, however, shows that this water system was installed primarily for the purpose of aiding in the sale of real estate, and at the present time is overbuilt to such an extent that a rate which would yield the full amount of the annual charges set out above would be unduly burdensome upon the present consumers.

During the past two years the Commission's hydraulic engineers have been called upon frequently to investigate water shortage upon this system, and evidence shows that the water development has about reached its limit. Applicant should, therefore, make every possible endeavor to prevent waste and extravagant use of water by its consumers. The installation of meters on all services and the delivery of water at measured rates will undoubtedly result in such a conservation of the available supply that danger of inadequate service will be eliminated, and in view of the fact that approximately two-thirds of applicant's consumers receive their supply through unmetered services

it appears advisable that the system be completely metered without delay.

The schedule of rates set out in the accompanying order is designed to produce sufficient revenue to cover maintenance and operating expense, depreciation annuity and a fair return upon a reasonable rate base.

ORDER.

Laurel Canyon Land Company having made application as entitled above, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that the rates now charged by Laurel Canyon Land Company for water delivered to its consumers are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that Laurel Canyon Land Company be and the same is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order, the following schedule of rates to be charged for water delivered to its consumers, effective for all water delivered subsequent to February 28, 1922, or the meter reading period next preceding that date:

METER RATES.

Monthly minimum charges:

½-inch meter	\$1 50
¾-inch meter	1 75
1 -inch meter	2 00
1½-inch meter	2 50
2 -inch meter	3 00
3 -inch meter	4 00

Monthly meter rates:

From 0 to 400 cubic feet, per 100 cubic feet	\$0 375
From 400 to 1000 cubic feet, per 100 cubic feet	30
From 1000 to 5000 cubic feet, per 100 cubic feet	25
Over 5000 cubic feet, per 100 cubic feet	20

MONTHLY FLAT RATES.

Residences of 5 rooms or less, occupied by a single family	\$1 25
For each bath tub	25
For each toilet	25
For each additional room	15
Sprinkling or irrigation of lawns, shrubbery, etc., for each square yard actually irrigated	005

Meters may be installed at the option of either the consumers or the utility.

It is hereby further ordered, that Laurel Canyon Land Company be and the same is hereby directed to file with this Commission, within thirty (30) days from the date of this order, rules and regulations to

govern relations with consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this eighth day of February, 1922.

DECISION No. 10073.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TRANSIT COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE ONE THOUSAND EIGHT HUNDRED THIRTY-FIVE SHARES OF ITS CAPITAL STOCK; AND

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TRANSIT COMPANY, A CORPORATION, TO PURCHASE ALL THE PROPERTY OF WESTERN MOTOR TRANSPORT COMPANY, A CORPORATION.

Application No. 7340.

Decided February 8, 1922.

AUTO STAGES—STOCK TO REIMBURSE TREASURY.—The Commission is not authorized under section 52 of the Public Utilities Act, to make an order permitting the issue of stock for the purpose of reimbursing a utility's treasury unless a showing has been made that income, as defined in the act, has been used for one or more purposes specified in the act.

ABANDONMENT—CAUSE FOR REVOCATION OF CERTIFICATE.—It is held that when a certificate is granted for the operation of a stage service between two fixed termini, such stage service must be operated in its entirety unless permission is secured from the Commission for abandonment for all or any part of the service. Abandonment of a portion thereof without authorization, will be held as cause for revocation of the entire operative right.

Sanborn and Roehl and DeLancey C. Smith, by DeLancey C. Smith, for Applicant. Thomas J. Ledwich, for Harry Christensen.

BY THE COMMISSION.

OPINION.

This application involves the sale and transfer by Western Motor Transport Company of all of its franchises, operative rights, equipment, properties and assets, subject to outstanding debts and liabilities, to California Transit Company, and the issue by California Transit Company of 1,835 shares (\$183,500 par value) of its common capital stock.

A public hearing was held before Examiner Satterwhite in San Francisco on December 23, 1921.

California Transit Company, formerly Star Auto Stage Company, is engaged in the business of transporting passengers by auto stages between Oakland and Stockton and San Jose, Stockton and Sacramento, Sacramento and Folsom, and Stockton and Modesto, Merced and Tracy. The company was organized on or about October 25, 1919, with an authorized stock issue of \$500,000 of common stock. The petition shows that there is at present \$461,600 of stock outstanding and

that steps are being taken to increase the authorized issue to \$750,000 so as to permit of the issue of \$183,500 of stock herein applied for.

Western Motor Transport Company was organized during August, 1919, with an authorized stock issue of \$500,000 of common stock divided into 5,000 shares of the par value of \$100 each. The company carries passengers by auto stages chiefly between Oakland and Sacramento, via Rodeo and Vallejo, or via Crockett and Vallejo, between Oakland and Martinez by either Rodeo or the Franklin Canyon route, between Oakland and Napa via either Rodeo or Crockett and between Rodeo and Danville.

As of September 30, 1921, Western Motor Transport Company reports its assets and liabilities as follows:

<i>Asset Accounts.</i>		
Cash -----		\$2,029 36
Bank of Italy -----	\$2,729 36	
Revolving fund -----	200 00	
Deposit on lease -----		5,000 00
Accounts receivable -----		3,196 18
Notes receivable -----		12,000 00
Property account -----		163,456 13
Auto equipment -----	\$210,772 05	
Garage -----	6,373 24	
Furniture and fixtures -----	2,399 02	
	\$219,544 31	
Less reserve for depreciation -----	56,088 18	
Supplies on hand -----		2,608 28
Deferred assets -----		44,970 49
Franchise account -----	\$23,520 49	
Organization expense -----	21,450 00	
Total asset accounts -----		\$234,160 44
<i>Liability Accounts.</i>		
Current liabilities -----		\$102,498 35
Accounts payable -----	\$32,362 34	
Notes payable -----	62,274 77	
Salaries payable -----	729 50	
Wages payable -----	3,035 99	
U. S. Government war tax -----	1,919 37	
Taxes payable -----	620 88	
G. M. Jackson -----	1,255 50	
Dr. O. G. Freyermuth -----	300 00	
Capital stock outstanding -----		183,500 00
Deficit -----		51,837 91
Total liability accounts -----		\$234,160 44

The record shows that on or about November 7, 1921, California Transit Company entered into an agreement to purchase from Western Motor Transport Company all of its properties and assets of every kind and nature, and issue in payment therefor \$100,000 of common

stock and assume the payment of the debts and liabilities of the selling company as they existed at the close of business on September 30, 1921, up to \$103,500.

The testimony herein shows that the holders of all of the outstanding stock of Western Motor Transport Company have agreed to this proposed sale.

The California Transit Company asks authority to issue additional stock in the amount of \$83,500 and distribute such stock as a dividend among its stockholders as soon as it has paid the assumed liabilities of the Western Motor Transport Company. The issue of stock, bonds, notes and other evidences of indebtedness by transportation companies is governed by section 6 of chapter 213, Statutes of 1917, as amended, and section 52 of the Public Utilities Act.

Section 6 of chapter 213, Statutes of 1917, as amended, reads in part as follows:

"Except as in this section otherwise provided, the provisions of section fifty-two of the public utilities act referring to the purposes for which stocks and stock certificates, bonds, notes and other evidences of indebtedness, may be issued and the application of and the accounting for the proceeds thereof, the powers and duties of the railroad commission and the rights and duties of public utilities with reference thereto, the legal status of stocks and stock certificates and of bonds, notes and other evidences of indebtedness, issued without an order of the railroad commission then in effect, and the relationship of the State of California to such stocks and stock certificates and such bonds, notes and other evidences of indebtedness, shall apply to and govern the issue of stocks and stock certificates, and of bonds, notes and other evidences of indebtedness, of transportation companies with the same force and effect as though section fifty-two of the public utilities act were restated in this section with the substitution of the words 'transportation company' for the words 'public utility' and of the words 'transportation companies' for the words 'public utilities'."

Subdivision (b) of section 52 of the Public Utilities Act reads in part as follows:

(b) "A public utility may issue stocks and stock certificates, and bonds, notes and other evidences of indebtedness payable at periods of more than twelve months after the date thereof, for the following purposes and no others, namely, for the acquisition of property, or for the construction, completion, extension or improvement of its facilities, or for the improvement or maintenance of its service, or for the discharge or lawful refunding of its obligations, or for the reimbursement of moneys actually expended from income or from any other moneys in the treasury of the public utility not secured by or obtained from the issue of stocks or stock certificates, or bonds, notes or other evidences of indebtedness of such public utility, for any of the aforesaid purposes except maintenance or service and replacements, in cases where the applicant shall have kept its accounts and vouchers for such expenditures in such manner as to enable the commission to ascertain the amount of moneys so expended and the purposes for which such expenditure was made; provided, that such public utility, in addition to the other requirements of law, shall first have secured from the commission an order authorizing such issue and stating the amount thereof and the purpose or purposes to which the issue or the proceeds thereof are to be applied, and that, in the opinion of the commission, the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order, and that, except as otherwise permitted in the order in the case of bonds, notes or other evidences of indebtedness, such purpose or purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income."

We are of the opinion that the Commission is not authorized under section 52 of the Public Utilities Act to make an order permitting the issue of stock for the purpose of reimbursing a utility's treasury, unless a showing has been made that income, as defined in the act, has been used for one or more purposes specified in the act.

Obviously, no income has yet been expended by California Transit Company to pay the assumed indebtedness; nor has the company made any showing that surplus earnings have been invested in its business. As a matter of fact, the company as of September 30, 1921, reports a deficit of \$9,496.23.

Under the law the Commission would have power, if a proper showing is made, to authorize California Transit Company to issue \$83,500 of stock for the purpose of securing funds to pay the assumed indebtedness, but California Transit Company does not ask for permission of that character. The request to issue the \$83,500 of stock will be dismissed without prejudice.

Thomas Ledwich, representing the plaintiff in the case of Harry Christensen against Western Motor Transport Company, now pending in the Superior Court of the State of California, in and for the County of Alameda, requests the Commission to consider the possibility of a judgment being rendered against the Western Motor Transport Company. Thomas Ledwich is, of course, interested in the preservation of the assets of the Western Motor Transport Company, so that any judgment his client may obtain can readily be recovered. It appears that if this application is granted, the \$100,000 of stock which will be issued by the California Transit Company to the Western Motor Transport Company in part payment for its properties, will be held in the treasury of that company for the purpose of satisfying any claims against the company which have not been assumed by the California Transit Company.

DeLancey C. Smith, attorney for applicants and secretary of the Western Motor Transport Company, referring to the distribution of the \$100,000 of California Transit Company's stock, made the following statement at the hearing on this application:

"I will state that, in connection with the cleaning up of the affairs of the Western Motor Transport Company, and the consummation of that transaction, a new Board of Directors has been substituted for the former officers and directors, and that I am one of the new directors, and I am also the secretary of the company; I wish to further state for the record that I have a power of attorney and trusteeship of all of the outstanding shares of the Western Motor Transport Company, and for the benefit particularly of Mr. Ledwich, to state that it is my conception the law would not permit anything to be done other than to take the proceeds of this sale and hold them in the treasury of the Western Motor Transport Company until such time as all of its corporate obligations were paid off or satisfied, and that after that time has passed, why, then the Western Motor Transport Company could be dissolved, and its corporate existence terminated; as far as

the intentions of the company is concerned, that that is the understanding, and that is what will be done, and in view of the fact that I hold a trusteeship of all of the stock at the present time, why, I think that that of itself can be constituted as a binding stipulation on the part of the company."

Western Motor Transport Company shows in exhibits filed at the hearing that the properties to be turned over to the California Transit Company in addition to the operative rights, consisted on September 30, 1921, of thirty-six automobiles of an estimated value of \$183,000, cash amounting to \$2,929.36, notes and accounts receivable of \$20,196.18, materials and supplies of \$2,608.25, garage and other equipment of \$8,872.26 and deferred assets of \$44,970.49. Its liabilities as of the same date, payment of which will be assumed by the California Transit Company, are reported to aggregate \$102,498.36. The record shows, however, that certain other liabilities exist which do not appear on the company's balance sheet. It has been agreed between Western Motor Transport Company and the California Transit Company that the transfer of the properties, if permitted, will take place as of September 30, 1921, and that all profits arising, or losses sustained, in the operation of the business of the Western Motor Transport Company since September 30, 1921, will accrue to, or be borne by, California Transit Company.

From the testimony submitted at the hearing it would appear that the operative right granted applicant Western Motor Transport Company under Decision No. 7340, Rodeo to Livermore is not at the present time being operated over its entire route, an official of applicant company testifying that the franchise in question was only operated for a period of two months after which service was abandoned between Danville and Livermore. No authorization was ever secured from this Commission for the abandonment of a portion of this operative right and due to such arbitrary discontinuance of service, we would not be warranted at this time in authorizing the transfer of the operative rights originally granted under Decision No. 7340.

It might be well at this time to call the attention of automobile transportation companies to the fact that should a certificate be granted upon a showing that public necessity requires the operation of a stage service between two fixed termini, that such stage service should be operated in its entirety unless permission is secured from this Commission for the abandonment of all or any portion of such service and that the abandonment of a portion thereof without authorization will be regarded as cause for revocation of the certificate covering the entire operative right and not only such portion as has been abandoned.

In authorizing the transfer of operative rights at the present time legally owned by the Western Motor Transport Company attention of applicants is called to the fact that under the provisions of this Commission's Decision No. 9892 this transfer will be authorized with the distinct understanding that this decision in no way authorizes the establishment of a through service over any route covered partially by a franchise owned by the California Transit Company and partially by a franchise heretofore owned by the Western Motor Transport Company, unless such through service is hereinafter specifically authorized by the Railroad Commission.

ORDER.

Western Motor Transport Company, having applied to the Railroad Commission for permission to transfer its operative rights to the California Transit Company, and California Transit Company having asked authority to acquire such operative rights, and to issue \$183,500 of common stock, and to assume indebtedness, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of \$100,000 of stock, and the assumption of indebtedness in the amount of not exceeding \$103,500, is reasonably required by California Transit Company, and that this application should be granted, subject to the conditions of this order.

It is hereby ordered, that California Transit Company be and it is hereby authorized to issue \$100,000 par value of its common stock to Western Motor Transport Company and to assume not exceeding \$103,500 of indebtedness of Western Motor Transport Company, all for the purpose of acquiring the properties of the Western Motor Transport Company described in this application.

It is hereby further ordered, that this application, in so far as it replace to the issue of \$83,500 of stock, be dismissed without prejudice.

The authority herein granted is subject to further conditions as follows:

a. The \$100,000 of stock which California Transit Company is herein authorized to issue, shall be delivered to Western Motor Transport Company as part payment for the properties, which it is herein authorized to sell to California Transit Company.

b. Western Motor Transport Company shall within ten days from the effective date of this order file with this Commission a stipulation agreeing not to distribute any of the \$100,000 of stock until all claims of creditors have been satisfied.

c. California Transit Company shall keep such record of the stock herein authorized as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

It is hereby further ordered, that applicant Western Motor Transport Company be and it is hereby authorized to sell and the California Transit Company to purchase the operative rights at present legally held by the Western Motor Transport Company with the exception of the operative right between Rodeo and Livermore as covered by Decision No. 7340, and subject to the following conditions:

1. Applicant Western Motor Transport Company shall immediately cancel all tariffs and time schedules now on file with the Railroad Commission, such cancellation to be in accordance with the provisions of General Order No. 51 and other regulations of the Railroad Commission.

2. Applicant California Transit Company shall immediately file tariff of rates and time schedules, in duplicate, in its own name, or adopt as its own the tariffs and time schedules heretofore filed with the Railroad Commission by applicant Western Motor Transport Company, all rates and time schedules to be identical with those filed by applicant Western Motor Transport Company.

3. That the rights and privileges herein authorized to be transferred may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

4. That no vehicle may be operated by applicant California Transit Company unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this eighth day of February, 1922.

DECISION No. 10074.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES GAS AND ELECTRIC CORPORATION FOR AN ORDER AUTHORIZING THE ISSUANCE AND SALE OF ITS PREFERRED CAPITAL STOCK IN THE AMOUNT OF TWO MILLION DOLLARS PAR VALUE.

Application No. 7522.

Decided February 8, 1922.

Paul Overton, for Applicant.

BENEDICT, Commissioner.

OPINION.

Los Angeles Gas and Electric Corporation asks permission to issue and sell at not less than \$87.50 per share 20,000 shares (\$2,000,000 par value) of its 6 per cent cumulative preferred stock for the purpose of financing in part the construction expenditures reported in its Exhibit No. "1".

By previous orders, the Railroad Commission authorized applicant to issue and sell \$5,000,000 of its 6 per cent cumulative preferred stock. The testimony shows that up to and including January 1, 1922, applicant has sold \$4,727,200 of the \$5,000,000 of stock.

Applicant in Exhibit No. "1" reports its estimated expenditures during 1922 for additions and extensions to its plants, properties and equipment as follows:

Gas works -----	\$3,715,007 00
Electric works -----	1,440,050 00
Gas distributing system -----	2,491,553 00
Electric distributing system -----	505,060 00
Miscellaneous -----	360,360 00
Total -----	<u>\$8,512,030 00</u>

It appears from the testimony that all of the proposed expenditures reported in Exhibit No. "1" have been approved by applicant's management.

As said, applicant asks permission to sell the stock at not less than \$87.50 per share. It further asks authority to expend not exceeding \$2.50 per share for the payment of commissions and expenses incidental to the sale of the stock and to use the remainder to pay in part the cost of additions and extensions to its plants, properties and equipment listed in its Exhibit No. "1".

I herewith submit the following form of order:

ORDER.

Los Angeles Gas and Electric Corporation having applied to the Railroad Commission for permission to issue 20,000 shares (\$2,000,000 par value) of its 6 per cent cumulative preferred stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in this order and that the expenditures are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Los Angeles Gas and Electric Corporation be and it is hereby authorized to issue 20,000 shares (\$2,000,000 par value) of its 6 per cent cumulative preferred stock.

The authority herein granted is subject to the following conditions:

1. The stock herein authorized to be issued shall be sold by applicant, for cash, at not less than \$87.50 per share. Of the proceeds realized, applicant may use an amount not to exceed the equivalent of \$2.50 per share to pay commissions and expenses incidental to the sale of stock. The remainder of the proceeds, including such portion of the said \$2.50 per share not used to pay commissions and expenses incidental to the sale of the stock, shall be used by applicant to pay in part the cost of the additions and extensions to its plants, properties and equipment set forth in applicant's Exhibit No. "1" filed in this proceeding.

2. Los Angeles Gas and Electric Corporation shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

3. The authority herein granted will apply only to such stock as may be issued, sold and delivered on or before December 31, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eighth day of February, 1922.

DECISION No. 10097.

SAN FRANCISCO-SACRAMENTO RAILROAD COMPANY,
A CORPORATION,

vs.

CENTRAL CALIFORNIA TRACTION COMPANY, A CORPORATION.

Case No. 1524.

Decided February 17, 1922.

This is a case brought by the San Francisco-Sacramento Railroad Company to enjoin the Central California Traction Company from preventing or interfering with the use of a transfer track of defendant in the city of Sacramento by the Sacramento Northern Railroad.

DEDICATION TO PUBLIC USE—INTEREST OF PUBLIC—CONFISCATION.—It is held that defendant by its acquiescence in and permission of the use by the Sacramento Northern of its interchange track, has dedicated the facility to public use and can no longer of its own accord withdraw that acquiescence and permission. The public has been granted an interest in the interchange track and to compel the defendant to maintain the *status quo* is declared to be in no way a confiscation of property, or a violation of the constitutional guarantee of due process of law.

COMPENSATION FOR USE.—The Commission in this case does not pass upon what would be a proper charge, if any, to be paid by the San Francisco-Sacramento, as the question of compensation was not raised by defendant.

Jesse H. Steinhart and John J. Goldberg, for Complainant.

Gregory and Goodell, by C. J. Goodell, and A. N. Baldwin, for Defendant.

BY THE COMMISSION.

OPINION.

The San Francisco-Sacramento Railroad Company, a corporation, hereinafter referred to as the San Francisco-Sacramento, has petitioned the Railroad Commission for an order perpetually restraining and enjoining the Central California Traction Company, a corporation, hereinafter referred to as the Central California, from preventing or interfering with the use of a certain transfer track of defendant located at Front and X streets in the city of Sacramento by the Sacramento Northern Railroad, hereinafter referred to as the Sacramento Northern, and for such further order or orders as to the Commission may seem proper.

A public hearing in the matter was held before Examiner Geary on June 3, 1921, at San Francisco, the matter being submitted upon briefs to be filed. On June 21, 1921, on motion of counsel for complainant, the submission was set aside and further testimony taken. The case was then resubmitted, closing brief filed January 17, 1922, and is now ready for a decision.

The San Francisco-Sacramento and the Central California are competitors for business originating, among other points, at Richmond, for transportation to Sacramento and certain other places. At Front and X streets in Sacramento, the Central California constructed and maintained at its own expense a transfer track 1580 feet long, connecting the Central California's line with the line of the Southern Pacific Company, for the purpose of interchanging cars with the latter company. It is this transfer, or interchange track, which is involved in the controversy in the case now before us.

No payment, directly or indirectly, is made by the San Francisco-Sacramento to the Central California for the interchange service. The San Francisco-Sacramento does, however, pay the Sacramento Northern \$3 for each car switched upon the transfer track by the latter company. It appears, moreover, that some reciprocal arrangement was entered into some ten or eleven years ago by and between the Northern Electric Railway, the predecessor of the Sacramento Northern, and the Central California, whereby the now Sacramento Northern obtained the use of the transfer track at Front and X streets and the Central California was granted the right to use a certain freight shed at Second and M streets and the wye tracks at Eighth

and I streets belonging to the Sacramento Northern. It was developed by the evidence, however, that the Central California also paid the Northern Electric Railway a monthly rental for the use of this freight shed but the testimony on this point is indefinite and unsatisfactory.

Cars transported over the route of the San Francisco-Sacramento destined to Sacramento are delivered by the San Francisco-Sacramento at West Sacramento to the Sacramento Northern, which company in turn transports such cars over its line from West Sacramento to Front and X streets and places them upon the transfer track of the Central California at Front and X streets.

The Southern Pacific Company has access to this transfer track of the Central California and receives or delivers cars on the transfer track, hauls them over the line of the Southern Pacific Company and distributes them at points in Sacramento or to a connecting carrier.

The San Francisco-Sacramento, through its use of the Central California's transfer track at Front and X streets, is enabled to compete successfully with the Central California on business originating at Richmond destined to the City of Sacramento.

On December 14, 1920, the Central California notified the San Francisco-Sacramento that, effective January 1, 1921, the Sacramento Northern would no longer be permitted to use the Central California's transfer track at Front and X streets for placing thereon cars routed over the San Francisco-Sacramento's lines for delivery in Sacramento. Upon receipt of this notification the San Francisco-Sacramento filed the complaint now under consideration, petitioning the Commission to preserve the *status quo*; namely to prevent interference by the Central California with the Sacramento Northern in making use of the Central California's transfer track at Front and X streets for placing thereon cars routed over the San Francisco-Sacramento's line for delivery in Sacramento, and for such further order or orders as to the Commission might seem proper in the premises.

If the San Francisco-Sacramento is denied the use of the transfer track in question, cars routed over its line for delivery in Sacramento will of necessity have to be transported by the Sacramento Northern from West Sacramento by a circuitous route to Eighteenth and B streets in Sacramento and be delivered at this latter point to the Southern Pacific Company for ultimate distribution and delivery; thereby, under present switching arrangements, causing a delay variously estimated at from 18 to 24 hours.

Complainant contends that the case is within the purview of section 22a of the Public Utilities Act. Section 22a of this act provides that:

Every common carrier shall afford all reasonable, proper and equal facilities for the prompt and efficient interchange and transfer of passengers, tonnage and cars,

loaded or empty, between the lines owned, operated, controlled or leased by it and the lines of every other common carrier, and shall make such interchange and transfer promptly without discrimination between shippers, passengers or carriers either as to compensation charged, service rendered or facilities afforded. Every railroad corporation shall receive from every other railroad corporation, at any point of connection, freight cars of proper standard and in proper condition, and shall haul the same either to destination, if the destination be upon a line owned, operated or controlled by such railroad corporation, or to point of transfer according to route billed, if the destination be upon the line of some other railroad corporation.

Nothing in this section contained shall be construed as in anywise limiting or modifying the duty of a common carrier to establish joint rates, fares and charges for the transportation of passengers and property over the lines owned, operated, controlled or leased by it and the lines of other common carriers, nor as in any manner limiting or modifying the power of the commission to require the establishment of such joint rates, fares and charges.

Complainant's track arrangement is such that it has no means of delivering its freight cars into Sacramento except through the switching service performed by the Sacramento Northern. The interchange track, from the use of which defendant now seeks to exclude the Sacramento Northern from placing thereon cars routed over the San Francisco-Sacramento for ultimate delivery in Sacramento, is a vital link in facilitating the freight service rendered the people of Sacramento by the San Francisco-Sacramento. This switching arrangement, however it may have been consummated originally, has been in effect for many years. It is not shown that at any time previous to the issuing of the order by the Central California, dated December 14, 1920, which gave rise to the case we are now considering, did defendant object to the use of the interchange track in question by any of the railroads concerned in the use of the track, nor does it now object to such use by anyone except by the Sacramento Northern in placing thereon cars of complainant destined for delivery to anyone but defendant itself. Putting it more concretely, defendant is perfectly willing to permit complainant to use the interchange track through the latter's connecting line, the Sacramento Northern, if the cars are to be routed over defendant's main line, but is unwilling to accord this privilege to complainant if the cars do not go over defendant's main line.

The question of payment for the use of the interchange track is not a part of this case. The evidence does not show that defendant has ever made a demand upon complainant for payment covering the use of the interchange track. The Commission, moreover, has no record covering compensation, if any, defendant might seek to demand in return for the use of the interchange track by the San Francisco-Sacramento through its connecting line, the Sacramento Northern.

There is no question that the interchange track has been and still is in constant use not only by defendant, but by every other railroad

having access thereto, some of which railroads are in active competition with defendant.

By its acquiescence in and permission of such use, defendant has dedicated its interchange track to the use of the public and now can no longer, of its own accord, withdraw that acquiescence and permission. The rights of the public are fixed; to grant the plea of defendant would be to fly in the face of the highest legal authority. Defendant assumed a status which it was under no obligation to enter; to wit, the furnishing of an interchange track, but once having committed itself to this status by its own free will, it is no longer free to withdraw therefrom. The public has been granted an interest in the interchange track, and to compel the defendant to maintain the *status quo* is in no way a confiscation of property, in no way a violation of the constitutional guarantee of due process or the law of the land.

In *State vs. Jacksonville Terminal Company*, 41 Fla. 377, 27 Southern 225, the Supreme Court of Florida in sustaining an order of the Railroad Commission of that state clearly expressed the distinction between the taking of property for public use and regulating the use of property already dedicated to the public service, as follows:

* * * There is a very clear distinction between a taking or an appropriation of property for a public use, and regulating the use of property devoted to a use in which the public has an interest. The latter is an exercise of the "police power," as it is called; the former, of the power of eminent domain. The state in the former case compels the dedication of the property or some interest therein to a public use, or if already dedicated to one public use, then to another. In the latter the owner has voluntarily, or in pursuance of the provisions of its charter, dedicated the property to a use in which the public has an interest, and the use of that property so dedicated is merely regulated and controlled for the public welfare, * * *.

Again, in the case of *Camp Rincon Resort Company vs. Eshleman, et al.*, 172 Cal. 561, we find the following significant language of the Supreme Court of California:

The order requiring the connection of the two lines was made under the authority of section 40 of the Public Utilities Act. The section was considered by this court in *Pacific Tel. and Tel. Co. vs. Eshleman*, 166 Cal. 640, (Ann. Cas. 1915C, 822, 50 L. R. A. (N. S.) 652, 137 Pac. 1119). It was there held that an order requiring a company to connect its lines with those of a competing company, where there had been no such connection theretofore and the first company had not held itself out as willing to make such connections, could not be sustained. The questions involved were so fully discussed in that case that there is no occasion here to repeat our views. It will suffice to say that the present proceeding is not within the rule of the Pacific Telephone Company case, for the reason that the connection here directed to be made was merely a continuation of a service which the petitioner had voluntarily assumed. Whether we regard the Cold Brook Camp Company itself, or the occupants of its camp, as constituting the public to whose use the lines of the petitioner had been offered and dedicated, the fact remains that the connection which the commission ordered was within the scope of a public service which the petitioners had assumed to supply. There was, therefore, no violation of constitutional right in requiring the continuation of the service.

Defendant, in its brief, maintains that the case does not come within the purview of section 22 (a) of the Public Utilities Act, holding on the contrary, that it involves the question of eminent domain, on the ground that if the Commission compels defendant to permit the continuation of the use by complainant of its interchange facilities in question there will be a taking of defendant's property without just compensation, therefore without due process and in violation of the constitutional guarantee. It relies strongly upon the case of *Pacific Telephone and Telegraph Company vs. Eshleman*, 166 Cal. 640, 137 Pac. 1119, but overlooks the point of distinction between that leading case and the case now before us for decision. In the case of *Pacific Telephone and Telegraph Company vs. Eshleman*, the telephone company had never dedicated its property to the use of rival and competing companies and the commission was without authority under section 22 (a) of the Public Utilities Act to compel such a dedication. Section 22 (a) is concerned solely with the regulation of a utility which has already dedicated its property, or an interest therein, to the public use. The case we are now called upon to decide, on the other hand, is plainly within the purview of the provisions of section 22 (a) of the Public Utilities Act. There has been a dedication by long continued use through acquiescence and consent of and by defendant, and contentions of defendant, therefore, can not be sustained. The case before us for decision is one merely involving regulation in the contemplation of section 22 (a) of the act.

Again, in the case of *Southern Pacific Company vs. Los Angeles Milling Company*, 177 Cal. 395, the Supreme Court of the State of California affirmed the judgment of the lower court granting an injunction sought by the Southern Pacific Company to prevent the Los Angeles Milling Company from tearing up a certain spur track belonging to the milling company which had been used by the Southern Pacific Company for some twenty years in transporting thereover cars destined to the milling company's plant and the plants of neighboring industries served by this transfer track. The supreme court held that the company in maintaining these tracks and permitting their use by the Southern Pacific Company and the neighboring industries had dedicated the same to a public use and that the milling company no longer had the power to alter or otherwise interfere with such public use, even though it was thereby compelled to have the spur tracks remain on its property against its will.

It would not illuminate, but would merely lengthen, this discussion to make analyses of the many authorities cited in the able briefs in this case. Each case involving matters which pertain to fundamental

rights must be tested with reference to its peculiar facts. No testimony was adduced to the effect that anyone who had lawful occasion to use the interchange or transfer track had ever been denied the privilege to do so. The testimony tended to show that the interchange or transfer track has been used continuously by complainant in rendering that expeditious service to which the people of Sacramento are entitled.

It will be borne in mind that in the decision we render herein this Commission does not pass upon what would be a proper charge, if any, to be paid by the San Francisco-Sacramento, but solely upon the right of the San Francisco-Sacramento to the same privileges as are accorded other roads. There is before this Commission, as heretofore stated, no question as to proper or improper compensation to defendant. That matter has not been raised by defendant and is not before the Commission for determination.

The Central California would not have been required, ordinarily, to give the use of its facility to the San Francisco-Sacramento, but by voluntarily permitting a competing road to use that facility it has waived for all time its right to insist upon the protection of the constitutional guarantee.

ORDER.

The San Francisco-Sacramento Railroad Company having petitioned the Railroad Commission for an order perpetually restraining and enjoining the Central California Traction Company from interfering with or preventing the use of the transfer tracks owned by Central California Traction Company at Front and X streets in the city of Sacramento in the delivering thereon of cars received by the Sacramento Northern from the San Francisco-Sacramento Railroad Company.

A hearing having been held, testimony taken and exhibits introduced, the Commission having made a thorough investigation, given due consideration to the law and the facts in the case and being fully apprised in the premises, as set forth in the preceding opinion, and finding as a fact that no change in the present switching arrangement is warranted;

It is hereby ordered, that the Central California Traction Company continue the switching arrangement now in effect whereby cars routed over the San Francisco-Sacramento Railroad Company for delivery in Sacramento are switched by the Sacramento Northern Railroad upon the Central California Traction Company's transfer or interchange track at Front and X streets in Sacramento, and desist from interfer-

ing or attempting to interfere in any manner whatsoever with cars routed over the San Francisco-Sacramento Railroad Company for delivery in Sacramento and which cars the Sacramento Northern Railroad desires to switch upon the Central California interchange or transfer track at Front and X streets in Sacramento.

Dated at San Francisco, California, this seventeenth day of February, 1922.

DECISION No. 10098.

JOHN NELSON AND GEORGE H. HARTER

vs.

F. M. HALEY AND P. B. MAHONEY.

Case No. 1624.

Decided February 17, 1922.

AUTO STAGE—UNAUTHORIZED SUSPENSION—ABANDONMENT.—It is held that unauthorized suspension of operation will be considered an abandonment of operative rights.

Wyckoff and Gardner, by *H. M. Parker*, for Complainants.

BY THE COMMISSION.

OPINION.

John Nelson and George H. Harter operating a stage line between Santa Cruz and Salinas and also by the authority conferred by Decision No. 8844 of the Railroad Commission under date January 4, 1921, a stage line between Castroville and Monterey complain of defendants herein and allege that said defendants have illegally operated a stage line between Santa Cruz and Monterey in that such operation has been conducted after the expiration of the time specified by the Railroad Commission for the commencement of operation as contained in this Commission's Decision No. 8050 as decided September 1, 1920.

Defendants duly filed their answer denying the material allegations of the complaint. On December 5, 1921, complainants herein filed an amendment and supplemental complaint alleging that defendants herein had entirely ceased operation of the stage line for which authority was granted by Decision No. 8050 as decided by the Railroad Commission on September 1, 1920, and that on September 12, 1921, the service authorized was suspended and abandoned and that since such date no service had been rendered for the accommodation of the public notwithstanding that road and weather conditions during all the period between September 12, 1921, and December 5, 1921, permitted the operation of said stage line. Complainants therefore pray that an order of the Commission be made revoking all operative rights

heretofore granted said defendants. The amendment to the complaint in this proceeding was duly served on P. B. Mahoney one of the defendants herein although no answer to such amendment to complaint was filed with this Commission.

A public hearing on this matter was conducted by Examiner Handford at San Francisco the matter was duly submitted and is now ready for decision.

Mr. George H. Harter one of the complainants herein testified that the defendants, Haley and Mahoney operating under the fictitious name of Coast Scenic Auto Stage line, operated from March 31 to September 12, 1921, inclusive, between Santa Cruz and Monterey; that prior to such time the roads between these points were passable and that during entire winter season of 1920-1921 the complainants Nelson and Harter operated service for the benefit of the public and that but few trips were lost on account of weather and road conditions rendering operation impossible. No operation by Haley and Mahoney was given between these points prior to March 31, 1921, although under the provisions of Decision No. 8308 on Application No. 5742 operation should have been commenced between Santa Cruz and Monterey and intermediate points or or before November 16, 1920. This witness also testified that he had personal knowledge that no operation had been conducted by defendants, Haley and Mahoney, over the route between Santa Cruz and Monterey since September 12, 1921.

There was no appearance on behalf of defendants at the hearing on this proceeding although notice of hearing was personally served on defendant, P. B. Mahoney, and an effort was made to serve notice of hearing on defendant, F. M. Haley, but he could not be located either in San Francisco or in Santa Cruz and his partner and codefendant, P. B. Mahoney, had no knowledge of his present address.

From the evidence in this proceeding it is apparent that the allegations of the complainants herein have been sustained as regards the unauthorized suspension of operation since September 12, 1921, up to the date of hearing on this proceeding and as the Commission has heretofore ruled in similar cases that unauthorized suspension of operation without the knowledge and approval of this Commission will be considered as an abandonment of operative rights heretofore granted the order herein will provide for the cancellation of operative rights as authorized in Decision No. 8050 on Application No. 5742 as decided September 1, 1920, and as extended by the provisions of supplemental order Decision No. 8308 on Application No. 5742 as decided November 5, 1920.

ORDER.

A public hearing having been held on the above entitled proceeding, the matter having been duly submitted and the Commission being fully advised and finding as a fact that the allegations of complainants as to unauthorized suspension of operation of a line between Monterey and Santa Cruz was made without authority of this Commission commencing on or about September 12, 1921, and continuing until the present time;

It is hereby ordered, that the operative rights as heretofore granted to F. M. Haley and P. B. Mahoney, doing business under the fictitious name and style of Coast Scenic Auto Stage Company, for the operation of an automobile stage line as a common carrier of passengers between Monterey and Santa Cruz and intermediate points as covered by Decisions Nos. 8050 and 8308 on Application No. 5742, as decided September 1, 1920, and November 5, 1920, respectively, be and the same hereby are canceled and revoked.

Dated at San Francisco, California, this seventeenth day of February, 1922.

DECISION No. 10099.

CUDAHY PACKING COMPANY

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 1681.

Decided February 17, 1922.

RAILROAD CARRIER—REPARATION FOR LONG HAUL.—In this case reparation is asked because of shipments made via a long route when traffic on the natural short route was obstructed.

EMBARGO—RIGHT TO DECLARE—REPARATION DENIED.—It is held that the right of a carrier to declare embargoes when difficulties arise making such action necessary, is well established by decisions of the courts and of the Interstate Commerce Commission. Case ordered dismissed.

Fred P. Gregson, for Plaintiff.

James E. Lyon, for Defendant.

LOVELAND, Commissioner.

OPINION.

The complainant is a corporation and operates an abattoir and packing house at Los Angeles and purchases live stock at various points in California for shipment to Los Angeles for slaughter at that point.

The complaint asks for reparation on 15 carloads of hogs forwarded to Los Angeles from Hanford, Tipton, Visalia, Lemoore and Bakersfield on September 18 and 25, 1920, moved via Lathrop, San Jose and the Coast Line of the defendant Southern Pacific Company. The

rates assessed over this route on the 15 cars resulted in charges \$1380.10 in excess of what would have accrued had the hogs moved from the various points of origin to Los Angeles by the natural short line of the Southern Pacific, through Bakersfield, and the amount shown above is the reparation claimed. The distance the shipments actually traveled through San Jose and Lathrop was some 300 miles greater than the short line distance through Bakersfield and Mojave.

The testimony shows that Tunnel No. 5, between Bealville and Cliff on the line of the Southern Pacific between Bakersfield and Los Angeles, was obstructed September 6, 1920, by reason of a train wreck and fire, which burned out part of the tunnel and resulted in a cave-in. This disaster completely closed the San Joaquin Valley line via the Tehachapi mountains to Los Angeles from September 6 to September 28, 1920, during which time traffic was diverted via the coast line of the Southern Pacific. The record shows that on September 7, 1920, the freight traffic manager of the Southern Pacific issued an embargo order to the effect that it would not accept or handle, via Mojave, perishable freight or live stock originating or destined south of Lathrop, Tracy or Peters and north of Tunnel No. 5 to points south of Tunnel No. 5. All superintendents and agents were notified of the embargo and the information was distributed in the usual manner to the shipping public.

It is not denied that the claimant in this proceeding had full and complete knowledge of the blockade on the line and existence of the embargo orders. The live stock contracts covering these particular shipments bear notation to the effect that the hogs would move via San Jose and be subject to delay and some of the bills of lading set forth that the charges would be assessed on a combination of the local rates.

Both the complainant and defendant presented exhibits making comparisons of live stock rates, but since a conclusion in this proceeding does not necessarily involve the reasonableness of the rates assessed through the Lathrop-San Jose gateway to Los Angeles, it will not be necessary to analyze these exhibits.

Complainant, in its testimony, called attention to the fact that the embargo established by order of the freight traffic manager of the Southern Pacific on September 7, 1920, applied only to perishable freight and live stock and did not stop the acceptance and the forwarding of dead freight via San Jose and the coast route. The records in the proceeding include a telegram dated September 11, 1920, wherein the superintendents and agents of the carrier were notified that the embargo on perishable freight and livestock account Tunnel

No. 5 trouble would not apply to dead freight, but that the same should be accepted subject to delay. This practice of embargoing perishable freight and live stock, while permitting other freight to be received subject to delay, is not unusual and has no controlling force in this proceeding. The action is for recovery of reparation only and requires no adjustment of the live stock rates via the unusual route over which the 15 earloads of hogs were moved.

The testimony clearly establishes the fact that it was impossible to handle freight via the Bakersfield-Tehachapi route during the time Tunnel No. 5 was obstructed. The tunnel obstruction occurred on September 6; the first shipments moved September 18 and the second on September 25, at which time the shipper had full knowledge of the closing of the short line route, and it is not denied that the carrier made every possible effort to clear the tunnel in the shortest possible time.

The right of a carrier to declare embargoes when difficulties arise making such action necessary, is well established by the decisions of the courts and of the Interstate Commerce Commission. The mere fact that during this embargo period against the live stock the defendant elected to continue receipt of other classes of freight, subject to delay, created no discrimination under the provisions of sections 17 and 19 of the Public Utilities Act, inasmuch as all shippers of like kind of freight were treated in exactly the same manner. In the instant case, the shipments of hogs were received and transported by the Southern Pacific Company in conformity with the embargo orders and at the rates legally in effect via the route over which the shipments moved and with the full knowledge of the complainant.

I am of the opinion and find that the charges assailed were legally assessed and that they have not been shown to be unreasonable or otherwise in violation of the law.

The complaint will be dismissed.

ORDER.

This case being at issue upon complaint and answer on file, having been duly heard and submitted by the parties, full investigation having been had and it appearing, for the reasons set forth in the foregoing opinion, that the complaint should be dismissed;

It is hereby ordered, that the complaint in the above entitled proceeding be and the same is hereby dismissed.

The foregoing opinion and order is hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventeenth day of February, 1922.

DECISION No. 10100.

IN THE MATTER OF THE APPLICATION OF CENTRAL COUNTIES GAS COMPANY FOR A PERMIT TO ISSUE ONE HUNDRED FIFTY THOUSAND DOLLARS OF ITS FIRST MORTGAGE TWENTY-YEAR SIX PER CENT SINKING FUND GOLD BONDS.

Application No. 7498.

Decided February 17, 1922.

O'Melveny, Milliken and Tuller, by *Paul Fussell*, for Applicant.

BY THE COMMISSION.

OPINION.

In this application, as amended at the hearing held before Examiner Williams in Los Angeles, Central Counties Gas Company asks permission to issue, pledge and exchange \$150,000 of its first mortgage twenty-year six per cent sinking fund gold bonds due January 1, 1939.

Applicant heretofore, pursuant to Decision No. 9054, dated June 4, 1921, as amended, has executed a debenture trust agreement and has issued and sold \$150,000 of seven per cent debenture bonds, of which \$30,000 are payable on the first day of July of each of the years 1924 to 1926, both inclusive, and \$60,000 are payable on July 1, 1927.

By the terms of the trust agreement securing the payment of the debenture bonds, applicant agrees that as rapidly as it can lawfully do so under the provisions of its first mortgage, it will deposit and pledge with the trustee under the trust agreement \$150,000 of its first mortgage bonds as collateral security for the \$150,000 of debenture bonds. The trust agreement further provides that the holder of any debenture bond shall have the right and privilege of exchanging it for a first mortgage bond when, if and as such first mortgage bond is delivered to and deposited with the trustee under the trust agreement, provided that such right or privilege of conversion must be exercised at least ten days prior to the maturity of such debenture bond and prior to the time such debenture bond is called for redemption. The company will pay a premium of five per cent in cash for each seven per cent debenture bond exchanged for a first mortgage six per cent bond of like face value.

F. W. Hunter, applicant's vice president and general manager, testified that the company stands ready to exchange the first mortgage bonds for debenture bonds as provided in the trust agreement securing the payment of the debentures. Pending such exchange or conversion, the company asks permission to pledge the first mortgage bonds with the trustee under the trust agreement as collateral security for the debenture bonds.

Applicant reports that it has expended for additions and betterments the sum of \$177,286.49. The record shows that the trustee under applicant's first mortgage has never been requested to certify any bonds on account of such expenditures. The expenditures submitted permit the certification of \$132,000 face value of first mortgage bonds. Applicant asks that it be permitted to issue \$18,000 of bonds when and as it is permitted under the terms of its first mortgage upon the showing to the Commission that it is entitled to their issue.

We believe the application should be granted to the extent and subject to the conditions of the following order:

ORDER.

Central Counties Gas Company, having applied to the Railroad Commission for permission to issue, pledge or exchange bonds, a public hearing having been held, and the Railroad Commission being of the opinion that applicant's request should be granted;

It is hereby ordered, that Central Counties Gas Company be and it is hereby authorized to issue \$150,000 of its first mortgage bonds and to pledge them with the trustee under that trust agreement dated July 1, 1921, as collateral security for the \$150,000 of debenture bonds issued pursuant to Decision No. 9054, dated June 4, 1921, as amended.

It is hereby further ordered, that Central Counties Gas Company be and it is hereby authorized to exchange the first mortgage bonds herein authorized for a like amount of debenture bonds under the provisions of said trust agreement upon the basis of 105 and accrued interest for debenture bonds at par and accrued interest, applicant paying the premium of 5 per cent in cash.

The authority herein granted is subject to further conditions as follows:

(1) Eighteen thousand dollars of the first mortgage bonds herein authorized shall be deposited or exchanged only when and as hereafter authorized by the Railroad Commission in a supplemental order or orders upon the showing by applicant that it is entitled to issue said \$18,000 of bonds under and by the terms and provisions of its first mortgage.

(2) Applicant shall keep such record of the issue, deposit or exchange of the bonds herein authorized as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this seventeenth day of February, 1922.

DECISION No. 10101.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE ADDITIONAL FIRST MORTGAGE BONDS IN THE AMOUNT OF ONE MILLION FOUR HUNDRED NINETY-EIGHT THOUSAND FOUR HUNDRED SIXTEEN DOLLARS AND TO SELL THE SAME.

Application No. 7531.

Decided February 17, 1922.

LeRoy M. Edwards, for Applicant.

BENEDICT, Commissioner.

OPINION.

Southern Counties Gas Company of California asks permission in the above entitled matter to issue and sell \$1,498,416 face value of its first mortgage 5½ per cent bonds due May 1, 1936, and to use the proceeds obtained from the sale of the bonds to finance in part the cost of extensions, additions and betterments described in the application.

As of December 31, 1921, applicant reports \$1,500,000 of common and \$296,500 of 8 per cent preferred stock outstanding. In addition, applicant has sold preferred stock on an installment payment plan and on account of such sales had received the sum of \$38,081.65.

Applicant's interest-bearing funded debt is reported at \$6,564,600 and consists of \$4,864,700 of first mortgage 5½ per cent bonds due May 1, 1936; \$700,000 of second mortgage 6 per cent serial sinking fund gold notes due on or before December 1, 1924, and \$999,900 of 8 per cent collateral trust bonds due December 1, 1930. The payment of collateral trust bonds is secured by the deposit of \$1,312,400 of first mortgage bonds, which bonds are not included in the \$4,864,700 mentioned above.

The following figures submitted by applicant reflect the growth in its business during the past four years:

Item	1918	1919	1920	1921
Plant and investments	\$4,327,843 61	\$6,389,458 39	\$7,127,357 41	\$8,408,900 14
Gross earnings-----	\$1,595,012 85	\$2,210,610 91	\$2,905,357 86	\$4,251,023 80
Operating expenses--	\$1,084,515 04	\$1,687,714 72	\$2,285,851 25	\$3,483,707 03
Available for interest, amortization and dividends -----	\$ 420,497 81	\$ 522,896 19	\$ 619,506 61	\$ 767,316 77
Meters in service-----	45,381	62,336	73,322	85,388
Cubic feet of gas sold	3,276,847,900	4,444,344,800	5,581,673,200	8,781,324,600

Applicant in its Exhibit No. "1" reports that from September 1, 1921, to December 31, 1921, it expended \$370,338.33 for permanent extensions, additions, betterments and improvements to its existing plants and properties and that no bonds have been issued against such

expenditures. It asks authority to issue on account of such expenditures, bonds in the amount of \$296,270.66, which amount is equivalent to 80 per cent of the expenditures. Applicant further reports that because of construction expenditures incurred prior to September 1, 1921, the trustee under its first mortgage is authorized to certify bonds in the amount of \$69,990.08. The expenditures used as a basis for the issue of \$69,990.08 of bonds were examined by the Commission in connection with applicant's fifth supplemental petition in Application No. 6306. Adding the \$296,270.66 and the \$69,990.08 makes a total of \$366,260.74 face value of bonds which applicant asks permission to issue and sell forthwith at not less than 84½ per cent of their face value and accrued interest.

Applicant shows in a statement attached to the petition that during the year 1922, it will be called upon to expend \$1,415,520 for betterments, extensions and improvements to its existing plants and system. The estimated construction expenditures are summarized by applicant as follows:

Betterments—all districts	\$573,020 00
Extensions and replacements necessary on account of street paving not covered elsewhere	40,000 00
Cost of taking on 12,000 new consumers, such cost covering services, regulators, meters and main extensions up to 100 feet per consumer	600,000 00
Additional motor trucks and automobiles required by the growth of applicant's business	28,500 00
Engineering and superintendence	32,000 00
Insurance during construction	10,000 00
Miscellaneous construction expenditures	22,000 00
Contingencies	25,000 00
Distribution system—Fillmore	25,000 00
Total	\$1,415,520 00

The trustee under applicant's first mortgage is authorized to certify bonds equal in amount to 80 per cent of the cost of extensions, additions and betterments to applicant's plants and properties, provided of course, that applicant has complied with the other conditions of the mortgage. If applicant were to incur its estimated construction expenditures and comply with the terms of its first mortgage, the trustee would be permitted to certify bonds in the amount of \$1,132,416. Applicant does not at this time ask permission to sell bonds on account of construction expenditures incurred or to be incurred during 1922. It intends to file from time to time supplemental petitions setting forth its actual construction expenditures and use such construction expenditures as the basis for the sale of its first mortgage bonds. At present, applicant does ask permission to sell \$366,000 of bonds for the purpose of financing in part construction

expenditures made prior to December 31, 1921. The money obtained from the sale of such bonds will be used to liquidate current indebtedness.

I herewith submit the following form of order:

ORDER.

Southern Counties Gas Company of California having applied to the Railroad Commission for permission to issue bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of the bonds herein authorized is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Southern Counties Gas Company of California be and it is hereby authorized to issue \$1,498,416 face value of its first mortgage 5½ per cent bonds due May 1, 1936.

The authority herein granted is subject to the following conditions:

1. Of the bonds herein authorized to be issued, applicant may sell \$366,000 at not less than 84½ per cent of their face value, plus accrued interest, and use the proceeds to finance in part the cost of extensions, additions and betterments to its plants and properties installed prior to December 31, 1921, and referred to in this application, it being understood that the proceeds will eventually be used for the payment of current indebtedness.

2. The remaining \$1,132,416 face value of bonds herein authorized to be issued shall not be sold or otherwise disposed of by applicant except as hereafter authorized by the Railroad Commission.

3. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act.

4. Southern Counties Gas Company of California shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

5. The authority herein granted will apply only to such bonds as may be issued, sold and delivered on or before December 31, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventeenth day of February, 1922.

DECISION No. 10102.

IN THE MATTER OF THE APPLICATION OF OJAI POWER COMPANY
FOR AN ORDER AUTHORIZING IT TO INCREASE RATES FOR
WATER SOLD AND DELIVERED.

Application No. 7282.

Decided February 17, 1922.

Drapeau, Orr and Gardner, by H. F. Orr, for Applicant.
I. Gosnell, for City of Ojai.

BY THE COMMISSION.

OPINION.

This is an application of Ojai Power Company for authority to increase the rates charged for water. The application alleges in effect that the present rates do not yield sufficient revenue and that the utility is operating at a loss. The Commission is therefore asked to permit applicant to make such increases in its present rates as may be found reasonable.

A public hearing was held at Ojai, before Examiner Westover, of which all interested parties were notified and given an opportunity to be present and to be heard.

This system supplies water for domestic purposes in and in the vicinity of Ojai, Ventura County. The water supply is secured by pumping from an eight-inch well 185 feet deep. An electrically-driven pump lifts the water into a sump from which it is boosted into a 100,000-gallon steel storage tank. The distribution system consists of approximately 38,600 feet of pipe, ranging in size from three-quarters to six inches in diameter. The system serves about 184 consumers, of whom 128 are metered.

The present rates charged consumers are those fixed by this Commission, by Decision No. 6330, dated May 14, 1919, in Application No. 3950, entitled: *In the Matter of the Application of Ojai Power Company for an order authorizing it to increase rates for water sold and delivered.* They are as follows:

MONTHLY METER RATES.

Minimum charges:

$\frac{3}{4}$ -inch meter	-----	\$1 00
$\frac{1}{2}$ -inch meter	-----	1 50
1-inch meter	-----	2 00
1 $\frac{1}{4}$ -inch meter	-----	3 00
2-inch meter	-----	4 00
3-inch meter	-----	5 00
4-inch meter	-----	6 00

Quantity charges:

From 0 to 1000 cubic feet, per 100 cubic feet	-----	\$0 25
Over 1000 cubic feet, per 100 cubic feet	-----	20

MONTHLY FLAT RATES.

For each service	-----	\$1 50
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Mr. John Spencer, one of the Commission's hydraulic engineers, submitted a report, based upon an inspection of the system and methods of operation, which set forth an estimate of original cost of the property amounting to \$20,890; a depreciation annuity, computed by the sinking fund method, of \$405; and an estimate of reasonable maintenance and operating expense for the future of \$2,662 per year. A careful consideration of all the testimony presented leads to the conclusion that this estimate of maintenance and operating expense should be slightly increased and \$2,750 is therefore allowed for this purpose.

Annual charges based upon the foregoing items are as follows:

Return at 8 per cent upon \$20,890	\$1,671 00
Depreciation annuity	405 00
Maintenance and operating expense	2,750 00
Total	\$4,826 00

Revenues for the year 1920 were \$3,721, and for the first ten months of 1921 were \$3,410. Estimated revenues for the entire year 1921 amount to \$4,092.

Although there has been a slight but progressive increase in revenues for several years it is apparent that the utility is entitled to some increase in rates, and the schedule set out in the following order will do substantial justice to both the consumer and the utility.

The utility has materially improved service by the installation of increased storage and other facilities and of meters upon many of the services. It is recommended that the metering of the system be continued so as to effect a further conservation of water and more equitably distribute the charges among consumers.

ORDER.

Ojai Power Company having made application as entitled above, a public hearing having been held and the matter having been submitted:

It is hereby found as a fact that the rates now charged by Ojai Power Company for water delivered to its consumers are unjust and unreasonable in so far as they differ from the rates herein established and that the rates herein established are just and reasonable rates for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that Ojai Power Company be and the same is hereby authorized and directed to file with this Commission, within twenty (20) days from the date of this order, the following schedule of rates to be charged to consumers in and in the vicinity of Ojai, effec-

tive for all water delivered subsequent to February 28, 1922, or the meter reading period next preceding that date:

MONTHLY METER RATES.

Minimum charges:

$\frac{3}{4}$ -inch meter	-----	\$1 25
$\frac{1}{2}$ -inch meter	-----	1 75
1 -inch meter	-----	2 25
1 $\frac{1}{2}$ -inch meter	-----	3 00
2 -inch meter	-----	4 00
3 -inch meter	-----	5 00
4 -inch meter	-----	6 00

Quantity charges:

From 0 to 2000 cubic feet, per 100 cubic feet	-----	\$0 25
Over 2000 cubic feet, per 100 cubic feet	-----	20

MONTHLY FLAT RATES.

Residences of 5 rooms or less, occupied by a single family	-----	\$1 25
For each additional room	-----	10
For each bath tub	-----	25
For each toilet	-----	25
For private garage and one automobile	-----	25
For each additional automobile	-----	15
Stores or shops	-----	1 50
Soda fountains either alone or in connection with other business	-----	2 00
Barber shops with one chair	-----	1 00
For each additional chair	-----	50
For each bath tub	-----	50
Hotels:		
For each room with running water	-----	25
For each room without running water	-----	10
For each bath tub	-----	50
For dining room	-----	2 00
Restaurants, for each unit of seating capacity	-----	10
Public garages, not more than six automobiles	-----	2 50
For each additional automobile	-----	25
For sprinkling or irrigation of lawns, gardens or shrubbery, per square foot of surface actually irrigated	-----	005

It is hereby further ordered, that Ojai Power Company be and the same is hereby directed to file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern relations with its consumers, such rules and regulations to be effective upon their acceptance by this Commission.

Dated at San Francisco, California, this seventeenth day of February, 1922.

DECISION No. 10103.

W. H. MULL ET AL.

vs.

LEWIS A. AND PRUDENCE TURNER, OR THE TURNER
WATER SYSTEM.

Case No. 1591.

Decided February 17, 1922.

WATER UTILITY—INSUFFICIENT REVENUE—SERVICE OBLIGATION.—The contention of defendants in this case that service improvements can not be made because the system does not produce sufficient return on the investment, is not upheld. The defendants, it is pointed out, have assumed the obligation of rendering adequate and satisfactory service to consumers and to accomplish this result must install such facilities as are required.

W. H. Mull, in propria persona.

H. D. Turner, for Defendants.

BY THE COMMISSION.

OPINION.

This is a proceeding brought by W. H. Mull and sixteen other residents of what is known as the Clutter and Long tract, near Bell, Los Angeles County, against Lewis A. Turner and Prudence Turner, owners of a small public utility water system.

Complainants allege in effect that they are entirely dependent upon this system for their water supply; that meters have been installed free of charge to some consumers, while others are compelled to pay the cost of the meters and for the installation thereof; that the pipe line on South King street is not sufficiently large to permit of adequate service to consumers supplied thereby; and that this pipe line has a "dead end," thereby preventing proper circulation of water and endangering the health of consumers.

The complainants therefore ask that the defendants be compelled to refund the cost of all meters installed at the expense of consumers, or to make suitable refunds therefor as credits on water bills, and to install meters free of charge for such consumers whose service pipes are not now so equipped. Complainants also ask that the utility be ordered to replace the present one and one-half-inch pipe line on South King street with a four-inch line, and that the end thereof be connected with other distribution mains so that proper circulation of water may be secured.

Defendants in their answer allege that the pipe lines on the Clutter and Long tract, including the one on South King street, are not owned by the utility, that all meters upon the system have been furnished and installed at the expense of consumers; and that the connection of the King street main with other pipes in the system, so as to provide circu-

lation of water, would require the acquisition of rights of way across private property.

A public hearing in this matter was held at Los Angeles, before Examiner Williams, at which all interested parties were given an opportunity to be heard.

It appears that this water system was originally installed for defendants' own use, but as a large supply of water was developed defendants entered into agreements with their neighbors to furnish them water, and the service has since grown until at the present time there are approximately 100 connections for domestic and irrigation use.

Defendants do not own the distribution mains or meters through which water is delivered to consumers on the Clutter and Long tract, of which South King street is a part. It appears that the owners of the subdivision originally installed the pipe lines on this subdivision and in 1913 entered into an agreement with defendants which provided that defendants would furnish water to consumers and that Clutter and Long would install meters and maintain pipe lines. In return defendants agreed to pay ten per cent of the revenues. This agreement expires in 1923. It appears, however, that none of the agreed payments have been made and that defendants have been furnishing water on the tract, maintaining the pipe lines and charging consumers for meters and their installation.

Testimony conclusively shows that service to consumers on South King street has been inadequate and it is apparent that the one and one-half-inch main on that street should be replaced with a pipe line of larger size. It is also apparent that satisfactory service can not be maintained unless the entire distribution facilities, including pipes, services and meters, are owned and operated by defendants.

Defendants, however, contended that the operation of the system does not produce sufficient revenue to give an adequate return upon the investment, and that it is impossible to finance enlarged mains and installation of meters free of charge to consumers. The defendants herein have, however, assumed the obligation of rendering adequate and satisfactory service to consumers and to achieve this result should install such facilities as are required. If the present revenues are inadequate the proper remedy consists of an application to this Commission for an adjustment of rates.

The utility will therefore be ordered to file plans and specifications with the Commission covering such improvements of the system as are necessary in order that adequate service may be rendered. The utility will also be required to install meters free of charge to consumers, and

to refund to consumers such charges as may have been made by the utility for the installation of meters.

In order that the financial demands upon the utility may be minimized it will be provided that such refunds may be made as credits covering a portion of the bills for water consumed.

The evidence does not indicate that defendant has ever installed meters free of charge to consumers on the Clutter and Long tract, and it is apparent that all these consumers have received similar treatment in regard to the installation of meters.

In order to connect the "dead end" of the King street pipe line with other mains in the system it would be necessary to install 600 feet of pipe line across private property, and it does not appear that the results to be obtained thereby would justify the necessary expenditure at this time.

ORDER.

W. H. Mull and others having made complaint in the above entitled proceeding, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that defendants herein have not rendered adequate or satisfactory service to consumers on South King street; that a main of larger size and capacity should be installed therein; and that the best interests of the public require that meters be installed free of charge to the consumers.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that defendants herein be and they are hereby directed to file with this Commission within thirty (30) days of the date of this order detailed plans and specifications of such improvements as are necessary to render adequate service to consumers, and upon the approval of such plans and specifications by the Commission to begin at once and proceed diligently with the work of installation thereof, reporting progress to the Commission in writing at intervals of ten (10) days until completion.

It is hereby further ordered, that defendants herein be and they are hereby directed to install meters free of charge to consumers.

It is hereby further ordered, that defendants herein be and they are hereby directed to refund to consumers any payments made to defendants for the installation of meters, such refunds to be made as credits on monthly bills for water consumed, at the rate of ten per cent of the total amount of such monthly bills.

It is hereby further ordered, that in all other respects the complaint herein be and it is hereby dismissed.

Dated at San Francisco, California, this seventeenth day of February, 1922.

DECISION No. 10107.

IN THE MATTER OF THE APPLICATION OF SANTA BARBARA TELEPHONE COMPANY, A CORPORATION, FOR AUTHORITY TO CREATE A NOTE INDEBTEDNESS IN THE SUM OF TWO HUNDRED THOUSAND DOLLARS AND TO SECURE THE SAME BY THE PLEDGE OF BONDS, AND TO ISSUE, SELL AND DISPOSE OF SUCH NOTES TO THE EXTENT OF ONE HUNDRED THOUSAND DOLLARS FACE VALUE.

Application No. 7487.

Decided February 20, 1922.

Chickering and Gregory, by W. C. Fox, for Applicant.

MARTIN, *Commissioner.*

OPINION.

Santa Barbara Telephone Company, in this application, asks for authority to execute a trust agreement securing the payment of \$200,000 of ten-year 6½ per cent collateral trust notes; to issue and sell \$100,000 of such notes at not less than 94½ per cent of their face value, plus accrued interest; to issue interim certificates pending preparation and delivery of permanent notes; and to issue and pledge \$125,000 of its first mortgage 5 per cent thirty-year sinking fund gold bonds payable July 1, 1946, to secure the payment of the notes.

Applicant was incorporated on or about April 14, 1916. By Decision No. 3747, dated October 2, 1916, as amended, it was authorized to acquire the properties of Home Telephone and Telegraph Company of Santa Barbara, Home Telephone and Telegraph Company of Santa Barbara County and the properties of The Pacific Telephone and Telegraph Company in Santa Barbara County and to issue \$430,500 of its capital stock and \$396,500 of its first mortgage bonds.

The company reports that its authorized capital stock is \$700,000 divided into 7000 shares of the par value of \$100 each, of which 6000 shares are preferred and 1000 are common. The preferred stock is entitled to receive noncumulative dividends at the rate of 6 per cent per annum before any dividends are paid on the common stock. After such dividends have been paid, and the common stock shall have received dividends at the rate of 7 per cent in any one year, any additional dividends declared in such year shall be divided equally among the preferred and common stockholders.

As of November 30, 1921, the company reports \$350,000 of preferred and \$80,500 of common stock issued and outstanding. In addition, it reports outstanding \$386,300 of an authorized issue of \$700,000 of first mortgage 5 per cent bonds, \$14,000 of notes, and \$60,975.49 of miscellaneous current indebtedness.

Applicant now proposes to create an authorized note indebtedness of \$200,000 and to issue \$100,000 of such notes to reimburse its treasury, in part, and to finance the cost of additions and betterments. The company reports that prior to November 30, 1921, it has expended for additions and betterments to its properties the sum of \$498,235.21, of which \$174,439.90 may properly be capitalized through the issue of securities. This amount is determined as follows:

Additions and betterments, December 1, 1916, to November 30, 1921		\$479,539 89
Additions and betterments, July 1, 1916, to November 30, 1916		18,695 32
Total		\$498,235 21
<i>Less:</i> Organization expenses	\$2,947 74	
Depreciation fund invested	29,107 79	
Proceeds from bonds sold under Decision No. 3747	35,633 26	
Replacements and retirements	256,106 52	
		323,795 31
		\$174,439 90

The company proposes to use the proceeds from the sale of the \$100,000 of notes to reimburse its treasury, in part, on account of the reported \$174,439.90 of construction expenditures. The testimony of R. E. Easton, applicant's secretary, shows that the money necessary to pay for the additions and betterments was obtained from surplus earnings, from advances by consumers, through the investment of depreciation fund moneys, the issue of notes and the incurring of open account indebtedness. It is the company's intention, after the reimbursement of its treasury, to use \$10,000 of the proceeds to pay the \$10,000 borrowed from its depreciation fund, to use \$25,000 to pay outstanding notes and apply the balance to finance the cost of further additions and betterments.

In Exhibit "3" applicant estimates the cost of additions and betterments to be installed during 1922 at \$95,050 which cost it segregates to localities as follows:

Carpinteria	\$3,350 00
Goleta	3,470 00
Los Alamos	570 00
Guadalupe	200 00
Santa Ynez	5,460 00
Montecito	26,000 00
Lompoc	9,000 00
Santa Maria	37,000 00
Santa Barbara	10,000 00
Total	\$95,050 00

Applicant has filed as its Exhibit "C-Revised" a copy of the trust agreement which it proposes to execute for the purpose of securing the payment of the \$200,000 of ten-year 6½ per cent collateral trust notes and defining the terms and conditions under which the notes may be issued. The notes are to be dated January 1, 1922, and mature January 1, 1932. Under the agreement, applicant may redeem all or any part of the notes on any interest payment date.

A premium of 5 per cent must be paid on any notes redeemed on or before January 1, 1923, and a premium of one-half of one per cent of the principal of each note for each year of the remaining life of notes redeemed subsequent to January 1, 1923. The agreement requires the company to keep on deposit with a trustee as security for the payment of the principal and interest of the notes, first mortgage bonds in the ratio of \$1,250 of bonds for each \$1,000 face value of notes outstanding.

Upon the payment of any notes, the trustee shall, if the company is not in default, return to the company or its order a proper proportion of the bonds deposited as collateral. The order herein will provide only for the issue and deposit of the first mortgage bonds. When such bonds are returned to the company, they may not be disposed of by the company in any manner whatsoever except as hereafter authorized by the Commission.

Applicant asks permission to issue and pledge at this time \$125,000 of its first mortgage bonds to secure the payment of the \$100,000 of notes which it desires to issue and sell.

Applicant has entered into an agreement for the sale of the \$100,000 of notes at 94½ per cent of their face value and accrued interest. For legal reasons the company will not be able to deliver the notes until on or after March 4, 1922. Pending the delivery of the notes, it is the intention of the company to issue interim certificates, in an amount equal to the face value of the notes which applicant asks permission to issue.

I herewith submit the following form of order:

ORDER.

Santa Barbara Telephone Company having applied to the Railroad Commission for permission to execute a collateral trust agreement and to issue bonds and notes as indicated in the foregoing opinion, a public hearing having been held, and the Railroad Commission being of the opinion that the application should be granted and that the money, property or labor to be procured or paid for through such issue is reasonably required for the purpose or purposes specified herein, and

that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expense or to income:

It is hereby ordered, that Santa Barbara Telephone Company be and it is hereby authorized to execute a collateral trust agreement substantially in the same form as the trust agreement filed in this proceeding and marked Exhibit "C-Revised."

It is hereby further ordered, that Santa Barbara Telephone Company be and it is hereby authorized to issue and sell for cash at not less than 94½ per cent of face value plus accrued interest, \$100,000 of its ten-year 6½ per cent collateral trust notes, or to issue and sell under similar conditions a like amount of interim certificates, such interim certificates to be hereafter exchanged for the collateral trust notes herein authorized to be issued.

It is hereby further ordered, that Santa Barbara Telephone Company be and it is hereby authorized to issue \$125,000 of its first mortgage 5 per cent bonds and to pledge them as security for the payment of the notes herein authorized to be issued.

The authority herein granted is subject to further conditions as follows:

(1) The authority herein granted to execute a collateral trust agreement is for the purpose of this proceeding only and is granted only in so far as this Commission has jurisdiction under the Public Utilities Act and is not intended as an approval as to such other legal requirements to which such trust agreement may be subject.

(2) Applicant shall use the proceeds from the sale of the notes, or interim certificates, herein authorized to be issued to reimburse its treasury, and after such reimbursement apply the proceeds to the repayment of a \$10,000 loan from its depreciation fund, to the payment of \$25,000 of outstanding notes and to the payment of the cost of additions and betterments described in applicant's Exhibit No. 3.

(3) Upon the payment or redemption of any of the notes herein authorized to be issued, a proper proportion of the first mortgage bonds herein authorized to be issued and deposited as collateral shall be returned to applicant's treasury and thereafter not disposed of by applicant in any manner whatsoever except as hereafter authorized by the Railroad Commission.

(4) Applicant shall keep such record of the issue, pledge and sale of the bonds and notes, or interim certificates, herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(5) The authority herein granted to issue bonds and notes will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$100.

(6) The authority herein granted to execute a trust agreement and to issue bonds and notes, or interim certificates, will apply only to such trust agreement as may be executed and to such bonds and notes, or interim certificates, as may be issued on or before June 1, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twentieth day of February, 1922.

DECISION No. 10112.

IN THE MATTER OF THE APPLICATION OF FRED NELSON TO FIX
THE RATE OF CHARGES FOR THE SALE OF WATER AT BIOLA,
CALIFORNIA.

Application No. 7010.

IN THE MATTER OF THE APPLICATION OF BIOLA WATER COMPANY
FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

Application No. 7212.

Decided February 20, 1922.

C. E. Beaumont, for Applicant.

BY THE COMMISSION.

OPINION.

A public hearing was held by Examiner Westover at Fresno upon the above entitled applications for certificate of public convenience and necessity to serve water in and about Biola in Fresno County, and for the establishment of suitable rates.

The Villa Land Company laid out the townsite of Biola about 1912, and installed, in connection therewith, a plant for the serving of domestic water. Subsequently the water plant was purchased by Fred Nelson, and still later C. E. Beaumont became his partner in the enterprise under the fictitious name of Biola Water Company. The plant was operated as an incident to the sale of land, no rates being charged until May, 1921.

At the present time, the testimony indicates that the community is enjoying a comparatively rapid growth. There were 16 consumers at the time of the hearing, and there is a demand for additional service of water. There is no other utility serving this vicinity. The nearest water system is at Kerman, 7½ miles away.

The water system consists of a well, pump pit, electrically-driven pump, 45,000-gallon storage tank on a 60-foot wooden tower, and transmission mains.

The owners of the system own a considerable portion of the townsite, and realize that a rate which would be fully compensatory for the total investment in the water system would be unreasonably high for the limited number of consumers now served, to pay. They have asked the Commission to establish a schedule of rates which it considers reasonable under all of the circumstances, and to provide for a measured service at the option of consumers. Such rates will be found in the order.

ORDER.

A public hearing having been held upon the above entitled applications, both matters being submitted and now ready for decision:

The Railroad Commission hereby declares that public convenience and necessity require that Fred Nelson and C. E. Beaumont, partners under the fictitious name of Biola Water Company, maintain and conduct a water system for the purpose of serving domestic water in and about Biola, Fresno County.

It is hereby ordered, that said partnership, known as Biola Water Company, be and it is hereby authorized and empowered to file, within twenty (20) days from the date of this order, and thereafter to charge and collect for water served in and about Biola, Fresno County, the schedule of rates hereinafter set forth, which rates are hereby found to be reasonable and just:

MONTHLY FLAT RATES.

1. Residences, boarding houses, flats, lodging houses, apartments of five rooms and less ----- \$1 25
 For each additional room ----- 15
 Additional for each bath tub ----- 25
 Additional for each toilet ----- 25
 Additional for each private barn or garage with one head of stock or automobile ----- 25
 Additional for each head of stock or automobile over one ----- 20
2. Sprinkling or irrigation of lawns, gardens, shrubbery, etc., when taken continuously, per 100 square feet ----- 035
 Sprinkling or irrigation of lawns, gardens, shrubbery, etc., when not taken continuously, per 100 square feet ----- 07
3. Blacksmith shops, machine shops, lumber yards, printing offices, bakeries, grocery stores, theatres, warehouses, meat markets, dry goods stores, bank offices, fraternal halls, club rooms, professional offices, stores and offices not otherwise listed ----- 1 50
4. Ice cream parlors, soft drink establishments, drug stores, billiard parlors (either alone or in connection with other business) ----- 2 00
5. Restaurants, lunch counters, per unit of seating capacity ----- 10
6. Barber shop, per chair ----- 1 00
 Additional for each bath tub ----- 1 00
7. Laundries, according to use ----- \$2.00 to 5 00

MONTHLY FLAT RATES—Continued.

8. Hotel—dining room.....	\$2 00
Additional for each bedroom.....	10
9. Public garages, 5 autos or less.....	2 00
10. Stables and feed yard, per average number of stock fed, each.....	25
11. Additional for each bath tub, toilet or urinal, in 3 to 10, inclusive.....	25
12. Industrial, railroad, and other uses, according to amount used, minimum.....	5 00
13. Minimum monthly charge for each service connection.....	1 50

METER RATES.

Minimum monthly charge	\$1 25
First 1000 cubic feet, per 100 cubic feet.....	25
Over 1000 cubic feet, per 100 cubic feet.....	20

Meters may be installed at the cost of the utility, at the option of the utility or the consumer in any case.

It is hereby further ordered, that rules and regulations governing said service of water shall be filed by said utility with the Commission, to become effective after receiving the written approval of the Commission.

Dated at San Francisco, California, this twentieth day of February, 1922.

DECISION No. 10113.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA HIGHWAY EXPRESS, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK.

Application No. 7490.

Decided February 20, 1922.

Milton Marks, for Applicant.

MARTIN, *Commissioner*.

OPINION.

California Highway Express, a corporation, asks permission to issue and sell \$40,000 par value of its common stock for the purpose of acquiring auto truck equipment and establishing and operating a motor truck business between San Francisco and Los Angeles and certain intermediate points, as permitted under the authority granted by the Commission in Decision No. 10063, dated February 8, 1922.

California Highway Express, a corporation, was organized in November, 1921, with an authorized stock issue of \$150,000 divided into 150,000 shares of \$1 each. The company intends to issue \$25,000 of its stock to Chester A. Nelson in payment for two (2) Wolverine enclosed vans of 3½ tons capacity each, a Grant stakebody truck of 2½ tons capacity, office furniture, materials and supplies and goodwill. Evidence was submitted showing that Chester A. Nelson expended about \$20,050 to acquire the properties and establish the business

which he intends to transfer to the California Highway Express. It is urged that in addition to the issue of approximately \$20,000 of stock for the properties, the Commission should permit the corporation to issue \$5,000 of stock for the goodwill of Mr. Nelson's business. I regard the showing made by applicant for the issue of stock against goodwill inadequate, and therefore recommend that this portion of the application be dismissed without prejudice.

Applicant also asks permission to issue and sell \$15,000 of stock at par to acquire new equipment and provide itself with working capital. The testimony shows that at this time applicant will not be in need of more equipment than the three trucks which it intends to acquire from Chester A. Nelson. It is believed, however, that applicant's business will increase and that as a result of such increase, additional equipment must be secured. For the purpose of paying for such equipment, applicant proposes to issue \$10,000 of stock. It asks authority to issue \$5,000 of stock for working capital. The order will permit applicant at this time to use the proceeds from the sale of \$3,000 of stock for working capital. If this amount proves insufficient, applicant should file a supplemental application setting forth facts showing that a larger working capital is necessary.

The order will authorize applicant to sell, for cash, at not less than par \$15,000 of stock and use not exceeding \$3,000 for working capital. The remainder of the proceeds must be placed in a special bank account and may be expended only for such purposes as the Railroad Commission may hereafter authorize.

I herewith submit the following form of order:

ORDER.

California Highway Express, a corporation, having applied to the Railroad Commission for permission to issue and sell stock, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by the stock herein authorized to be issued is reasonably required by applicant and that this application should be granted subject to the conditions of this order;

It is hereby ordered, that California Highway Express, a corporation, be and it is hereby authorized to issue \$35,000 of its common capital stock.

The authority herein granted is subject to the following conditions:

1. Twenty thousand dollars of the stock herein authorized to be issued may be delivered to Chester A. Nelson in exchange for the equipment, properties and business referred to in the foregoing opinion and in this application.

2. The remainder of the stock herein authorized to be issued, namely, \$15,000, shall be sold by applicant, for cash, at not less than par. Of the proceeds realized, \$3,000 may at this time be used by applicant for working capital. The remainder of the proceeds shall be expended only for such purposes as the Railroad Commission may hereafter authorize by supplemental order or orders.

3. Applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted to issue stock will apply only to such stock as may be issued, sold and delivered on or before September 1, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twentieth day of February, 1922.

DECISION No. 10115.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC STATES EXPRESS (A CORPORATION) FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A MOTOR EXPRESS SERVICE BETWEEN THE PORT OF LOS ANGELES (WILMINGTON), CALIFORNIA, AND THE CITY OF LOS ANGELES, CALIFORNIA, AS A UNIT OF SERVICE IN CONJUNCTION WITH THROUGH EXPRESS TRAFFIC VIA STEAMERS OF THE LOS ANGELES STEAMSHIP COMPANY BETWEEN THE PORT OF LOS ANGELES, CALIFORNIA, AND SAN FRANCISCO, CALIFORNIA

Application No. 7441.

Decided February 21, 1922.

CERTIFICATE—EXPRESS SERVICE—JURISDICTION.—Held that though both terminal points are within corporate limits of the city of Los Angeles, a certificate is required as the proposed route traverses a small part of the distance outside the city and hence within the jurisdiction of the Commission.

CERTIFICATE—JURISDICTION FOR—PRIMARY PURPOSE DETERMINATIVE.—The fact that no local business is to be transported between Los Angeles and Wilmington, even though such is but a minor portion of the service herein proposed to be undertaken, requires the justification by the applicant of its contention that the public convenience and necessity requires the establishment of the proposed route and such justification therefore means that the primary purpose for which the truck line is required as a portion of the through express business between Los Angeles and San Francisco requires an affirmative showing as to its public necessity if the desired certificate is to be granted.

CERTIFICATE—DIVISION OF THROUGH RATE.—The Commission finds in the instant case that the proposed divisions of the through rate to accrue to the Los Angeles Steamship Company are unwarranted and are not justified by the service the steamship company would perform under the proposed arrangement.

CERTIFICATE—SERVICE—EXISTING CARRIERS—EFFECT ON.—The Commission holds it is not justified in authorizing a service which would tend to weaken or lessen the ability of existing carriers properly to render service to the public, when there is no showing that existing carriers have not ample facilities fully to meet all demands of traffic.

CERTIFICATE—DESIRE TO ENTER BUSINESS.—Desire on the part of applicant to enter the proposed business held not to be justification for granting a certificate of public convenience and necessity.

John W. Hart and B. F. McKibben, for Applicant.

L. N. Bradshaw, for Southern Pacific Company, Protestant.

A. B. Roehl and Mark Thompson, for American Railway Express Company, Protestant.

C. W. Burr, for Los Angeles and San Pedro Transportation Company, Protestant.

C. H. Tibbett, for Thos. Richards Motor Express, Protestant.

C. W. Cornell, for Pacific Electric Railway Company, Protestant.

BY THE COMMISSION.

OPINION.

The Pacific States Express, a corporation, has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by it of an automobile truck service as a common carrier of express between the port of Los Angeles (Wilmington) and the city of Los Angeles, such service being a unit in a proposed express service to be established between San Francisco and Los Angeles via the steamers operated by the Los Angeles Steamship Company between the ports of San Francisco and Los Angeles (Wilmington).

Public hearings on the application were conducted by Examiner Handford at Los Angeles, the matter was duly submitted and is now ready for decision.

Applicant proposes to charge rates in accordance with a schedule marked Exhibit "A" attached to the application in this proceeding; to operate over the highway between Wilmington and Los Angeles at necessary intervals as required to connect with incoming and outgoing steamers of the Los Angeles Steamship Company, using as equipment one 1920 model Kleiber truck of 1½-ton capacity and such other equipment as may be necessary to meet the demands of traffic.

Applicant relies as justification for the granting of the desired certificate on the alleged facts that the applicant company was incorporated for the purpose of transacting an expedited or express service under contract with the Los Angeles Steamship Company operating the steamers "Yale" and "Harvard" between Los Angeles harbor (Wilmington) and San Francisco; that formerly the American Express

Company operating via said steamers and the Los Angeles and Salt Lake Railroad maintained a through express service between Los Angeles and San Francisco; that such through express service was discontinued at the time the said steamers were withdrawn from the above route and assigned to the service of the United States government during the war; that the American Express Company on July 1, 1918, became a part of the American Railway Express Company, which latter company now operates over the aforesaid Los Angeles and Salt Lake Railroad and all other rail routes; that with the restoration of the steamers "Yale" and "Harvard" to the service between Los Angeles (Wilmington) and San Francisco as operated by the Los Angeles Steamship Company it is the desire of applicant, operating under contract with said Los Angeles Steamship Company to restore the through or expedited express service which was withdrawn as a result of war conditions, and as the substitution of the rail service between Wilmington and Los Angeles is not now possible by reason of contract existing between the American Railway Express Company and the Los Angeles and Salt Lake Railroad, the use of a motor service between Wilmington and Los Angeles becomes necessary to provide the through service herein contemplated by applicant. No local service is to be undertaken by applicant between Wilmington and Los Angeles, the business to be confined to the through carriage of shipments between Los Angeles and San Francisco.

B. F. McKibben, a witness for applicant, testified as secretary and treasurer of the applicant corporation as to the proposed service to be established; that the applicant company was duly incorporated in September, 1921; that the proposed rates were approximately 12½ per cent less than the existing rates of the American Railway Express Company which company already had made or was contemplating a request for an increase of its rates; that the pick-up and delivery service in San Francisco was to be cared for by the facilities of the Worth Drayage Company and the similar service in Los Angeles was to be performed by the facilities of Russell Peck. The proportion of the through rate to accrue to the Los Angeles Steamship Company for the use of its facilities was stated to have been agreed upon as 52½ per cent of the through rate. The expense of free pick-up and delivery in Los Angeles and San Francisco was to be cared for by a proportion of the through rate, such proportion at both terminals to be 25 per cent of the amount remaining after the deduction from the through rate accruing to the Los Angeles Steamship Company had been paid. Under this

method as proposed the following would be the division of rates accruing to other companies and the applicant:

	Per cent
Los Angeles Steamship Company-----	52.5
Worth Drayage Company-----	11.875
Russell Peck Delivery-----	11.875
Applicant -----	23.75
Total -----	100.00

This witness estimated the gross revenue to be approximately \$3,500 per month, and from the net revenue to be received by applicant there would be required to meet the expense of administration, the salary and expenses of a Los Angeles agent, the salaries of messengers, the expense of maintenance and operation of the truck line between Los Angeles and Los Angeles harbor (Wilmington), stationery, printing and the other miscellaneous incidentals necessary in the conduct of the business. It is the intention of applicant to employ messengers who will regularly accompany shipments from San Francisco, will give personal supervision to the classifying of such shipments as to delivery routes while in transit on the steamer, performing the necessary waybilling and other clerical work, and on arrival at Wilmington such messengers will operate the truck to the point at which interchange is made with the Russell Peck delivery in Los Angeles. The messengers will then load up the outbound shipments as received from the Russell Peck delivery, transport them by truck to Wilmington, attend to the loading upon steamer, and while the steamer is en route will classify, waybill and in other matters care for shipments to the end that they will be assorted as to delivery routes when the steamer arrives at San Francisco and the shipments are turned over to the Worth Drayage Company for delivery in San Francisco. The basic feature of the service offered by applicant, according to the testimony of this witness, is an expedited delivery at a lesser rate than is at present charged by the American Railway Express Company.

H. Browning, a witness for applicant, testified that he was the traffic manager of the Broadway Department Store (a large retail mercantile establishment in Los Angeles); that he also represented an association known as the Retail Dry Goods Traffic Managers of Los Angeles, being chairman of the rate committee of such association. This witness expressed a dissatisfaction with the present facilities, or the manner in which same were used, of the American Railway Express Company. It appears from the testimony of this witness that a considerable volume of express matter moves between San Francisco and Los Angeles, the movement being principally southbound, and that due to the high rates now in effect for less than carload freight that many shipments move

by express, particularly over long distances, that formerly and normally would move by freight. The testimony of this witness tends to the conclusion that he and the association which he represents are in favor of any additional service which will facilitate the receipt of their shipments, and it is clear that the offer of a lesser rate is not a paramount factor as on rush shipments the rate appears to be of little consequence, the character of goods requiring express and expedited shipment evidently being of such a nature as to readily absorb any slight excess transportation cost.

Other evidence was received in support of the application as to the experience of the officials now connected with the applicant company in the express business; as to the ability of the local drayage concerns in Los Angeles and San Francisco to satisfactorily handle their portion of the proposed service, the character and quantity of their equipment; as to the duties and service to be rendered by the proposed agent or representative at Los Angeles; and as to the facilities and service to be rendered by the Los Angeles Steamship Company in the way of providing space for the assorting of express matter on steamers, the care of shipments of a valuable nature and the meals and accommodations to be furnished the messengers who will be employed by applicant and accompany shipments between Los Angeles, Wilmington and San Francisco.

The granting of this application is opposed by the American Railway Express Company, the Southern Pacific Company, the Pacific Electric Railway Company, the Los Angeles and San Pedro Transportation Company and Thos. Richards Motor Express.

Mark Thompson, a witness for protestant, American Railway Express Company, testified that he was the superintendent of that company in Los Angeles district and from his long experience in the express business was thoroughly familiar with the traffic conditions and requirements of the public using express service between Los Angeles and San Francisco; that five trains each way per day were used by the American Railway Express over the line of the Southern Pacific Company and that additional trains were available over the line of the Atchison, Topeka and Santa Fe Railway, but that such additional trains were infrequently used as regards through shipments between Los Angeles and San Francisco; that he was thoroughly familiar with the service formerly rendered between San Francisco and Los Angeles via a combination of the steamers of the Pacific Navigation Company (the same steamers "Yale" and "Harvard" as now operated by the Los Angeles Steamship Company and proposed to be used by applicant herein) and the Pacific Electric Railway Company with which latter

company Wells Fargo and Company (predecessor of the American Railway Express Company) had an operating contract and agreement; that under the former existing arrangement the shipments moved as freight between the Pacific Navigation Company dock at San Francisco to the dock at East San Pedro (the former terminus of the steamers at Los Angeles harbor) that shipments were delivered to a lighter and were ferried across to San Pedro where they were loaded into the cars of the Pacific Electric Railway, were rebilled and handled as express matter from San Pedro to Los Angeles and to ultimate consignees, being in charge of messengers at all times after leaving San Pedro; that no lighterage is now necessary for the reason that the steamers now dock at Wilmington instead of East San Pedro; that no service of the character above mentioned has been maintained by the American Express Company since the year 1913; that the American Railway Express Company now maintains service between Wilmington and Los Angeles, such service being operative over the line of the Pacific Electric Railway Company; that when notice of arrival of shipments destined to the care of the American Railway Express at Wilmington is received by his company in sufficient time on the day of arrival of steamer at Wilmington (and it appears that telephone advice is given to his company by the agent of the Los Angeles Steamship Company) that shipments move out of Wilmington at 1.30 p.m. resulting in deliveries being accomplished in the business district of Los Angeles on the same day that shipments arrive at Wilmington and as regards the residential and outlying districts delivery is accomplished on the first trip of delivery wagons on the following morning; that no complaint had been received from shippers or consignees in Los Angeles as to any difficulty experienced in delay to shipments; that the American Railway Express Company had ample facilities for the pick-up and delivery of shipments in Los Angeles and San Francisco; that the present service afforded by such company was adequate and satisfactory in that frequent train service was available and on each day of the week, or if a shipper or consignee preferred service of a character similar to that proposed by applicant that such service could be rendered by the shipments moving as freight between San Francisco and Los Angeles, and when south-bound to be consigned to the care of the American Railway Express at Wilmington and from such point they would be handled by the protestant to Los Angeles and to the ultimate consignee; that negotiations were at present being conducted with the Southern Pacific Company for the establishment of additional express service between Los Angeles and San Francisco by using trains Nos. 75 and 76 (commonly known as the "Lark") it being intended by the

use of such trains, which are the fastest scheduled between the above terminals, to further expedite the through movement of express between San Francisco and Los Angeles on shipments requiring expedited movement. This witness further testified that the bulk of the express business handled between San Francisco and Los Angeles was in the south-bound movement, his estimate that 60 per cent so moved as against 40 per cent north-bound.

A witness for the protestant, Los Angeles and San Pedro Transportation Company, testified that an average of $27\frac{1}{2}$ tons per steamer was received by his company at Wilmington for transportation to Los Angeles; that all classes of commodities were handled; that deliveries were made in Los Angeles on the afternoon of the day that the steamer arrived at Wilmington, and in all cases where perishable commodities or patent medicines were received, deliveries were made to the door of the consignee in Los Angeles. This protestant claims an investment of \$63,452 in facilities for handling shipments between Los Angeles and harbor points; that twelve trucks and ten trailers constitute the equipment at present owned by this protestant and which is available to care for the business; that such amount of equipment has at all times been more than sufficient to handle all business offered between Los Angeles and Wilmington; and that but few complaints as to service have been made, the running time between Wilmington and Los Angeles being but one hour forty-five minutes and goods being immediately passed to the care of a representative of this protestant when unloaded from the steamer to the dock.

Protestant, Pacific Electric Railway Company, introduced testimony as to service available between Wilmington and Los Angeles and that through rates and service existed between Los Angeles and San Francisco by reason of joint tariff with the Los Angeles Steamship Company. This protestant claims to have ample facilities for the handling of any shipments which may be offered over the territory herein sought and that any shipments arriving at Wilmington at 10 a.m. (the scheduled arriving time of the steamers) are in Los Angeles ready for delivery as of 7 a.m. the following morning.

Protestant, Southern Pacific Company and Thos. Richards Motor Express, introduced no testimony, their protest being confined to statements of counsel objecting to the granting of the desired certificate on the basis that facilities now available by existing rail and truck carriers were ample to satisfactorily care for the volume of business offering or for any increase in such volume; that there was no new business which would be developed by the establishment of the proposed service and that the ability of the existing carriers to satisfactorily handle the business now offering would be weakened if

competitive service were to be authorized. Counsel for Southern Pacific Company also directed attention to the fact that his company under agreement with the American Railway Express Company participated in the express revenue on the basis of a division of the rate and that any diversion of business from the American Railway Express Company would result in a corresponding loss of revenue to the Southern Pacific Company.

A somewhat unusual and unique situation is before the Commission in this matter. The provisions of chapter 213, Statutes of 1917, and its amendments, require a certificate of public convenience and necessity to be secured from the Railroad Commission before the business of transportation of persons or property for compensation, or as a common carrier, shall be commenced, except that such operation be within the limits of an incorporated municipality and with other minor exceptions not applicable to the present proceeding. The terminal highway points as covered by the application herein are both in the corporate limits of the city of Los Angeles, the route, however, which is proposed to be followed over the highway between Wilmington and Los Angeles runs for a small portion of the distance over territory not within the jurisdiction of the municipality of Los Angeles and applicant, therefore, notwithstanding that no local business is proposed between Los Angeles and Wilmington, is properly before the Railroad Commission for a certificate. The fact that no local business is to be transported between Los Angeles and Wilmington, even though such is but a minor portion of the service herein proposed to be undertaken, requires the justification by the applicant of its contention that the public convenience and necessity requires the establishment of the proposed route and such justification therefore means that the primary purpose for which the truck line is required as a portion of the through express business between Los Angeles and San Francisco requires an affirmative showing as to its public necessity if the desired certificate is to be granted.

It appears clearly established from the testimony in this proceeding that no new business will be developed by the granting of the certificate herein sought, that whatever business is secured by applicant will be divert from existing carriers, either express or freight. The test therefore to be applied is whether the applicant is offering to the public any superior service, either as to time or at a materially lesser cost to the shipping public; whether the service of existing carriers is deficient as to time consumed between shipper and consignee, or is offered to the public at rates which are excessive or unreasonable. The following tabulation of comparative rates is of interest as illus-

trating rates now available for the public by existing transportation lines and those as proposed by the applicant:

Carrier	Rates in cents per cwt.			
	Class 1	Class 2	Class 3	Class 4
Applicant:				
The Pacific States Express.....	295	225	185	
American Railway Express Company.....	334	251	207	
Combination:				
Pacific Electric Railway Company and Los Angeles Steamship Company, Southern Pacific Company, Los Angeles and Salt Lake Railroad	90½	72	62½	55
Combination:				
Los Angeles Steamship Company and American Railway Express	166	144	142	
(First class rate used for steamer proportion)				
Add 75 cents per cwt. as pick-up or delivery charge in San Francisco making total rates..	241	219	217	

It is apparent from the above comparison that no substantial saving is offered the public on the matter of rates as regards shipments moving under the first and second class express classifications, although a saving would be made on the so-called Class 3 or commodity rating. There is, however, nothing before the Commission in the record on this proceeding indicating that the public is dissatisfied with existing rates and service on the classes of shipments which would be moved under the Class 3 rating of the American Railway Express Company, and the combination through rate arrived at by the use of the facilities of the Los Angeles Steamship Company and the American Railway Express Company affords a schedule of rates which in general is more advantageous to the public, with the exception of the commodity rate, in that practically the same expedited service is assured.

We will now consider the financial status of the proposed service and the possibility of its being successfully continued, should it be authorized. According to the testimony of Mr. McKibben, secretary-treasurer of applicant company, it is anticipated that the gross receipts from operation will approximate \$3,500 per month. The known expenses using such estimate of revenue as a basis are as follows:

Proportion accruing to Los Angeles Steamship Company on basis of 52.5 per cent of through rate.....	\$1,837 50
Proportion accruing to Worth Drayage Company for pick-up and delivery of shipments at San Francisco on basis of 11.875 per cent of through rate	415 63
Proportion accruing to Russell Peck for pick-up and delivery of shipments at Los Angeles on basis of 11.875 per cent of through rate.....	415 63
	\$2,668 76

Deducting the known expenses from the estimated monthly revenue of \$3,500 leaves a balance of \$831.24 from which applicant will have to pay the expenses of operation of a motor truck between Los Angeles and Wilmington, the expense of an agent and his office force at Los Angeles, the salaries of three messengers at \$75 per month each, the incidental items of stationery and printing, advertising and insurance. As the expense of the agent is estimated at \$250 per month it is but fair to allow \$100 per month for the expenses of his office; and three messengers at \$75 per month each total \$225 per month for this item. The expense of operating a truck between Los Angeles and Wilmington on the basis of 16 round trips (which is the number of scheduled trips now being performed by the steamers "Yale" and "Harvard") would result in a mileage of approximately 640 which at a rate of 11 cents per mile would equal \$70.40 per month for the truck service. The expense of a driver has been eliminated from the above estimated rate per truck mile as the messengers of applicant company are to perform the work of driving the trucks between Los Angeles and Wilmington. A normal expense for a driver is estimated at \$5 per day and a driver would make one round trip of 40 miles as a day's work. A total of \$645.40 is made up of the incidental items referred to above, leaving an amount of but \$185.84 from which to meet expenses of the San Francisco office and to provide for the items of stationery, municipal license in Los Angeles, general office supplies and expenses and return a profit to the promoters of the enterprise. We are of the opinion that the financial estimates are not on a sound basis and that the service proposed to be rendered could not long be continued unless applicant was granted an increase in the rates, and as shown above, practically a similar service can be secured by the shipping public, if they so desire, by the use of the already existing facilities of the present authorized rail and motor carriers. The Los Angeles Steamship Company would be the main beneficiary under the proposed arrangement were the desired certificate to be granted, as the proportion of the through rate accruing to that company according to the proposed rates of applicant would be as follows and as regards the several classes:

	Class 1 Cwt.	Class 2 Cwt.	Class 3 Cwt.
Applicant's proposed rate	\$2.95	\$2.25	\$1.85
Los Angeles Steamship Company's proportion based on 52.5 per cent of the through rate	1.55	1.18	.97

The service rendered by the Los Angeles Steamship Company in connection with that herein proposed by applicant is the same as the freight service, with the exception that the steamship company proposes

to accord space to the express messengers to permit the waybilling and assorting of shipments according to route destination, to provide a secure place for valuable shipments and to provide sleeping accommodations and sustenance for the messengers to be employed by applicant while aboard the steamers and en route. For these privileges the steamship company would enjoy a premium of \$0.76 per cwt. on the first class; \$0.39 per cwt. on the second class; and \$0.18 per cwt. on the third class (or commodity) rates of applicant over the steamship company's regular first class rate of \$0.79 per cwt. as published to apply between San Francisco and Wilmington. The proposed divisions of the through rate to accrue to the Los Angeles Steamship Company are unwarranted and are not justified by the service the steamship company would perform under the proposed arrangement.

At the present time, according to the record in this proceeding, the Los Angeles Steamship Company is operating a service of three round trips per week between San Francisco and Wilmington; later it is proposed to increase this service to four round trips per week, and in the summer season to operate a schedule of five round trips per week. Against this schedule of sailings the public have the regular seven-day service of the American Railway Express Company and with a number of schedules each day, therefore the convenience of the proposed service does not seem apparent, nor does there seem any necessity for the establishment of a service which would apparently only operate to the profit of the Los Angeles Steamship Company as a participant in the through rate, the applicant having made no showing that the business could be conducted profitably with the small margin over expenses as hereinabove fully discussed. The public can secure all the advantages of the existing service by using the present facilities now available and the Commission is not justified in authorizing a service which would tend to weaken or lessen the ability of existing carriers to properly render service to the public, and there is no showing herein that any of the existing carriers have not ample facilities to fully meet all the demands of traffic.

In view of the foregoing, we are of the opinion and find as a fact that the application and evidence herein presents a desire on the part of the applicant to enter the proposed business but we further find that such desire is not a proper justification for the granting of a certificate of public convenience and necessity, and that the application must, therefore, be denied.

ORDER.

Public hearings have been held on the above-entitled application, the matter having been duly submitted and the Commission being now fully

advised and basing its order on the findings as appearing in the foregoing opinion:

The Railroad Commission hereby declares that public convenience and necessity do not require the operation by The Pacific States Express, a corporation, of motor express service between the port of Los Angeles (Wilmington) and the city of Los Angeles, as a unit of service in conjunction with through express traffic via steamers of the Los Angeles Steamship Company between the port of Los Angeles and San Francisco, and

It is hereby ordered, that this application be and the same hereby is denied.

Dated at San Francisco, California, this twenty-first day of February, 1922.

DECISION No. 10118.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING IT TO INCREASE ITS BONDED INDEBTEDNESS BY THE SUM OF ONE HUNDRED MILLION DOLLARS, TO PROVIDE SECURITY FOR THE SAME, TO ISSUE AND SELL BONDS OF SAID INDEBTEDNESS, WHEN AUTHORIZED, OF THE PAR VALUE OF FIVE MILLION DOLLARS, TO SELL INTERIM CERTIFICATES OF FIVE MILLION DOLLARS PAR VALUE PENDING THE AUTHORIZATION OF THE DEFINITIVE BONDS, AND TO SELL AND CONVEY CERTAIN PROPERTY; AND

IN THE MATTER OF THE APPLICATION OF EL DORADO POWER COMPANY FOR AN ORDER AUTHORIZING IT TO ISSUE STOCK, TO EXECUTE A MORTGAGE FOR THE PURPOSE OF SECURING THE ABOVE MENTIONED WESTERN STATES GAS AND ELECTRIC COMPANY BONDED INDEBTEDNESS, AND TO EXECUTE A LEASE OF ALL ITS PROPERTIES TO THE WESTERN STATES GAS AND ELECTRIC COMPANY

Application No. 7551.

Decided February 21, 1922.

Chickering and Gregory, by Allen L. Chickering, for Applicants.

BENEDICT, Commissioner.

OPINION.

Applicants ask the Railroad Commission to make an order authorizing the performance of the following acts:

1. The transfer of the Sierra Water Supply and Hydroelectric Development properties by Western States Gas and Electric Company to El Dorado Power Company.

2. The execution of mortgages by El Dorado Power Company and Western States Gas and Electric Company to secure the payment of an authorized issue of \$100,000,000 of bonds.

3. The issue of all the authorized stock (at present \$100,000) of El Dorado Power Company to Western States Gas and Electric Company.

4. The issue and sale at 88½ and accrued interest of \$5,000,000 of 6 per cent twenty-five-year bonds by El Dorado Power Company and Western States Gas and Electric Company, or a like amount of interim certificates.

5. The lease of the new power plant to Western States Gas and Electric Company.

The Commission, by Decision No. 9642, dated October 26, 1921, in Application No. 6876, declared that public convenience and necessity required the construction by Western States Gas and Electric Company and El Dorado Power Company of additional reservoirs, water conduits and power plants, and the enlargement of the existing plant of Western States Gas and Electric Company, all substantially in accordance with the plans filed in Application No. 6876.

In connection with Application No. 6876, applicants filed a copy of the estimated cost of their new hydroelectric plant. The testimony in this proceeding shows that a revised estimate of the cost has been made and that such estimate is less than that filed in the former proceeding. Applicants have agreed to file a copy of their revised estimate.

Applicants were not able, at the hearing, to present completely their case. A number of important instruments are in process of preparation, among others, the proposed mortgages, a description of the properties to be transferred by Western States Gas and Electric Company to El Dorado Power Company, and a copy of the lease of the new hydroelectric plant to Western States Gas and Electric Company. Not until these instruments and other matters requested are filed can the Commission make a final order in this proceeding. Counsel for applicants realizes this and stated that he did not expect the Commission to make a final order at this time.

The Commission will make a preliminary order authorizing the issue and sale of \$5,000,000 of 6 per cent twenty-five-year bonds, or a like amount of interim certificates pending the issuance of the bonds as provided in this order.

The order will provide that none of the bonds may be issued until the Commission has authorized the execution of mortgages securing the payment of the bonds.

All proceeds realized from the sale of interim certificates must be deposited with a trustee or trustees and returned to the purchasers of the interim certificates in the event that the definitive bonds are not issued. If the definitive bonds are issued, the proceeds obtained from

their sale or the sale of interim certificates may be expended only for such purposes as the Commission will hereafter authorize.

The order herein is of a preliminary character only and in no way commits the Commission to approve applicant's financial plan or authorize the performance of any other acts. These matters will be further considered by the Commission in appropriate order or orders made in this proceeding.

I herewith submit the following form of order:

ORDER.

El Dorado Power Company and Western States Gas and Electric Company having applied to the Railroad Commission for permission to execute mortgages, transfer and lease properties, issue stock and bonds, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of \$5,000,000 of bonds is reasonably required by applicants and that the Commission should make this preliminary order;

It is hereby ordered, that Western States Gas and Electric Company be and it is hereby authorized to issue and sell, for cash, on or before September 1, 1922, at not less than 88½ per cent of their face value, and accrued interest, \$5,000,000 of twenty-five-year 6 per cent bonds, or interim certificates of a like amount, provided that all moneys obtained from the sale of the interim certificates be deposited with a trustee or trustees, subject to the condition that if the definitive bonds are not issued, the moneys shall be returned to the purchasers of interim certificates. No bonds may be issued until the execution of the mortgages has been authorized.

The proceeds realized from the issue and sale of the bonds herein authorized shall be expended only for such purposes as the Railroad Commission may authorize by supplemental order or orders.

The authority herein granted is subject to further conditions as follows:

1. Applicants shall keep such record of the issue and sale of the bonds herein authorized, and of the disposition of the proceeds as will enable them to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

2. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee amounts to \$3,000.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-first day of February, 1922.

DECISION No. 10123.

IN THE MATTER OF THE APPLICATION OF TULARE HOME TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ISSUE NOTES.

Application No. 7550.

Decided February 27, 1922.

Sanborn and Rochl, and DeLauncy C. Smith, by A. B. Rochl, for Applicant.

BENEDICT, *Commissioner.*

OPINION.

Tulare Home Telephone and Telegraph Company in the above entitled matter asks permission to issue two \$5,000 7 per cent demand notes, one to the First National Bank of Tulare and the other to the National Bank of Tulare, for the purpose of refunding two notes of a like amount.

The Railroad Commission on April 9, 1920, by Decision No. 7406 (Vol. 18, Opinions and Orders of the Railroad Commission of California, p. 46) authorized Tulare Home Telephone and Telegraph Company to issue and sell at not less than 93 per-cent of their face value, and accrued interest, \$10,000 of its series "B" 6 per cent bonds, and use the proceeds for the following purposes:

To reimburse its treasury on account of capital expenditures.....	\$2,000 00
To purchase new section to switchboard.....	2,500 00
To install new cables and construct extensions.....	4,200 00
To install 65 new telephones.....	1,300 00
Total	<u>\$10,000 00</u>

The record in this proceeding shows that applicant was unable to sell its bonds, and that in order to carry out its construction program as outlined in Application No. 5464, and in Decision No. 7406, it was necessary for applicant to borrow \$10,000. This money was secured through the issue of short-term notes. Applicant now asks authority to issue notes in renewal of the notes heretofore issued.

I herewith submit the following form of order:

ORDER.

Tulare Home Telephone and Telegraph Company having applied to the Railroad Commission for permission to issue \$10,000 face value

of notes, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property, or labor to be procured or paid for by the issue of the notes herein authorized is reasonably required by applicant and that this application should be granted;

It is hereby ordered, that Tulare Home Telephone and Telegraph Company be and it is hereby authorized to issue, on or before May 1, 1922, two demand notes for the sum of \$5,000 each, bearing interest at the rate of not exceeding 7 per cent per annum and payable to the First National Bank of Tulare and to the National Bank of Tulare, respectively, for the purpose of paying or refunding the notes described in this application; provided,

1. That the authority herein granted will not become effective until applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee amounts to \$25; and,

2. That Tulare Home Telephone and Telegraph Company will keep such record of the issue and sale of the notes herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of February, 1922.

DECISION No. 10124.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY TO ISSUE PREFERRED STOCK OF THE PAR VALUE OF ONE HUNDRED THIRTY-ONE THOUSAND DOLLARS.

Application No. 7529.

Decided February 27, 1922.

SECURITIES—ELECTRIC UTILITY—PREFERRED STOCK—REFUNDING SINKING FUND.—

Permission in the instant case to issue preferred stock to refund sinking fund payments is held in no way to commit the Commission to a policy of granting, in the future, permission of a similar nature either to applicant or any other public utility.

Chickering and Gregory, by *Allen L. Chickering*, for Applicant.

MARTIN, Commissioner.

OPINION.

Western States Gas and Electric Company asks permission to issue and sell \$131,000 par value of its 7 per cent cumulative preferred

stock to reimburse its treasury and pay indebtedness incurred by it on account of payments into its sinking funds. The company intends to sell the stock at par but asks permission to use not exceeding 10 per cent of the proceeds to pay commissions and expenses incident to the sale of the stock.

Applicant as of December 31, 1921, reports \$3,231,500 of common and \$3,017,000 of its preferred stock outstanding.

Applicant has two bond issues: one being the American River Electric Company 5 per cent bonds; the other, Western States Gas and Electric Company first and refunding 5 per cent bonds. The American River Electric mortgage secures the payment of an authorized issue of \$1,000,000 of bonds. All of the bonds have been issued, but there are now held by applicant or by the trustee under the mortgage, bonds of the par value of \$793,000, leaving \$207,000 of bonds in the hands of the public.

The first and refunding mortgage of the Western States Gas and Electric Company provides for an authorized bond issue of \$10,000,000. Under this mortgage there have been issued bonds in the amount of \$7,389,500. Of the issued bonds, \$1,724,000 are deposited with the Union Trust Company of San Francisco to secure the payment of \$1,199,000 par value of applicant's 6½ per cent gold notes; \$1,387,000 of the bonds have been redeemed through the operation of the sinking fund, leaving \$4,278,500 of bonds outstanding. In addition to the bonded indebtedness to which reference has been made, applicant has outstanding \$1,199,000 of 6½ per cent gold notes due in 1923 and \$2,164,000 of 6 per cent notes due in 1927.

Applicant reports that since December 1, 1919, it has paid into the sinking fund of the Western States Gas and Electric Company mortgage the sum of \$473,716.25, and that on account of such payment, bonds in the amount of \$594,000 have been redeemed. It further reports that since December 1, 1919, it has paid into the sinking fund of the American River Electric Company mortgage, \$68,950, and that on account of such payment, bonds in the amount of \$68,000 have been acquired and are being held alive in the sinking fund, as provided for by the mortgage. The total bonds redeemed or acquired is reported at \$662,000. All of the bonds bear interest at the rate of 5 per cent per annum. Through their redemption or acquisition, applicant's interest charges have been reduced by the amount of \$33,100.

The Commission has heretofore authorized applicant to issue \$309,400 of preferred stock to refund, in part, sinking fund payments since December 1, 1919. Applicant now asks permission to issue \$131,000 of preferred stock for a similar purpose. Adding the \$131,000 to the

\$309,400 makes a total of \$440,400 of stock issued or to be issued, which amount is \$221,600 less than the bonds redeemed or acquired through sinking fund payments. Neither this nor the previous orders of the Commission permit of the refunding of applicant's entire sinking fund payments.

Permission herein granted to issue stock to refund sinking fund payments in no way commits the Commission to a policy of granting, in the future, permission of a similar nature either to applicant or any other public utility.

Applicant requests permission to expend for the payment of commissions and expenses incident to the sale of the stock an amount not exceeding 10 per cent of the par value of the stock sold. It agrees to keep the expenses at a minimum. Heretofore, applicant's maximum stock sale expense, according to the evidence, has been about 6 per cent. The order herein will limit the expenses that may be incurred to sell the \$131,000 of stock to 6 per cent.

I herewith submit the following form of order:

ORDER.

Western States Gas and Electric Company, having applied to the Railroad Commission for permission to issue and sell \$131,000 of 7 per cent cumulative preferred stock, a public hearing having been held and the Commission being of the opinion that the money, property, or labor to be procured or paid for by such issue is reasonably required by applicant and that this application should be granted, subject to the conditions of this order;

It is hereby ordered, that Western States Gas and Electric Company be and it is hereby authorized to issue and sell for cash at not less than par, on or before December 31, 1922, \$131,000 of its 7 per cent cumulative preferred stock.

The authority herein granted is subject to further conditions as follows:

1. Of the proceeds realized from the sale of the stock, an amount not exceeding 6 per cent of the par value of the stock sold may be used to pay expenses and commissions or brokerage fees incurred in connection with the sale of the stock. Any portion of the 6 per cent not needed for the purposes mentioned, together with all remaining proceeds from the sale of the stock shall be used by applicant to reimburse its treasury, because of surplus earnings used to meet sinking fund payments or to pay indebtedness incurred in making such sinking fund payments.

2. Western States Gas and Electric Company shall keep such record of the issue and sale of the stock herein authorized and of the dispo-

sition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of February, 1922.

DECISION No. 10125.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO ISSUE ITS COMMON CAPITAL STOCK IN THE MANNER, TO THE EXTENT AND FOR THE PURPOSES SPECIFIED HEREIN.

Application No. 7464.

Decided February 27, 1922.

SECURITIES—COMMON STOCK—DIVIDEND—GUARANTEE.—It is held that a company can under the law declare dividends only when it has a surplus, and no action taken by the Commission can in any way be interpreted as a finding that applicant should pay 7 per cent dividend on its common stock, nor that part of the dividends on the common stock, if any is declared by applicant's board of directors, should be paid in cash and part in stock. The Commission has repeatedly announced that it does not in any way guarantee the payment of dividends or interest.

STOCK ISSUE—DIVIDEND.—The Commission holds that under section 52 of the Public Utilities Act it has no power to authorize the issue of stock for the purpose of paying a stock dividend.

STOCK ISSUE—REIMBURSEMENT OF TREASURY—AFFIRMATIVE SHOWING NECESSARY.—The Commission is authorized to permit a utility to issue stock for the reimbursement of its treasury upon an affirmative showing that the money expended was not obtained by the issue of stocks, bonds, notes or other evidences of indebtedness and that the money was actually expended for one or more of the purposes mentioned in section 52 of the Public Utilities Act.

SURPLUS EARNINGS—CAPITALIZATION OF, THROUGH STOCK ISSUE—WORKING CAPITAL.—It is held that the part of applicant's surplus which it desires to capitalize has been spent in the conduct of its business and in improvements of service. It is pointed out that applicant has need of working capital and can secure such working capital in the first instance only through the issue of stock, bonds, notes or other evidence of indebtedness. Within certain limits it is held to be to the benefit of consumers if a utility permanently invests surplus earnings in its business.

William B. Bosley and C. P. Catten, for Applicant.

F. S. Brittain, for California Farm Bureau Federation, Protestant.

ROWELL, Commissioner.

OPINION.

Pacific Gas and Electric Company asks permission to issue 6799.76 shares (\$679,976 par value) of its common stock to reimburse its treasury on account of surplus earnings invested in working capital, and after

such reimbursement to distribute the stock as a stock dividend to its common stockholders.

Applicant reports that from January 1, 1917, to November 30, 1921, its surplus has increased by the sum of \$1,857,327.72. In Exhibit "C" applicant reports unappropriated surplus on November 30, 1921, of \$6,818,527.19 as compared with \$4,152,801.07 on January 1, 1917, the increase amounting to \$2,665,726.12. From the \$2,665,726.12 applicant deducts \$808,398.40, which amount was transferred to a special depreciation reserve, leaving a net increase of \$1,857,327.72.

In Exhibit "C" applicant reports the additions to, and deductions from, its corporate surplus account as follows:

Balance—January 1, 1917.....				\$4,152,801 07
Add net income:				
1917		\$3,181,079 92		
1918		3,722,585 68		
1919		4,340,352 83		
1920		4,919,958 58		
1921 to November 30.....		5,423,669 17		
				21,587,646 18
				\$25,740,447 25
Add miscellaneous adjustments:				
1917—Credit		\$32,635 36		
1918		154,408 11		
1919		26,812 47		
1920		208,326 89		
1921 to November 30.....		279,671 46		
				636,583 57
				\$26,377,030 82
Deduct reserve for amounts charged to consumers in 1917 in excess of rates allowed by city ordinance.....				283,390 16
				\$26,093,640 66
Deduct dividends paid:				
	Preferred	Common	Total	
1917	\$1,471,104 67	\$1,281,372 27	\$2,752,476 94	
1918	1,490,463 23		1,490,463 23	
1919	1,528,961 46	1,708,094 60	3,237,056 06	
1920	1,777,933 03	1,700,845 85	3,478,778 88	
1921 to November 30	2,132,409 79	1,275,660 30	3,408,070 09	
	\$8,400,872 18	\$5,965,973 02	\$14,366,845 20	14,366,845 20
				\$11,726,795 46
Deduct special depreciation reserve set up in conformity with Railroad Commission Decision No. 3484:				
1917			\$991,601 60	
1918			1,000,000 00	
1919			1,000,000 00	
1920			1,000,000 00	
1921 to November 30.....			916,666 67	
				4,908,268 27
Balance unappropriated November 30, 1921.....				\$6,818,527 19

The term "net income" as used above represents the company's operating and non-operating income, less operating expenses, customary depreciation, taxes, interest and other fixed charges.

The company has regularly paid 6 per cent dividends on its preferred stock. The increase in the amount of dividends paid on preferred stock is caused by more stock being outstanding. On its common stock, applicant paid a cash dividend of 5 per cent during the first three quarters of 1917; no dividends during 1918, and a cash dividend of 5 per cent during each of the years 1919, 1920 and 1921. An analysis of the company's surplus account shows that it could under the law have declared a dividend on the common stock during 1918.

As of November 30, 1921, applicant's balance sheet shows current assets of \$12,321,654.50. On December 31, 1916, its current assets amounted to \$8,147,751.46. The increase in the current assets amounts to \$4,173,903.04. Applicant's current liabilities on November 30, 1921, amounted to \$7,364,877.54; on December 30, 1916, to \$4,012,098.10, the increase being \$3,352,779.44. The increase in applicant's current assets, during the period under consideration, was \$821,123.60 more than the increase in current liabilities.

It appears that applicant's earnings from December 31, 1916, to November 30, 1921, have been sufficient to enable it to declare a cash dividend on its common stock of \$679,976, in addition to the dividend paid on such stock. Instead of paying an additional cash dividend, applicant has concluded to pay in common stock at par an additional dividend of 2 per cent on its common stock. If permitted by the Commission, applicant will issue \$679,976 of common stock at par to reimburse its treasury because of surplus earnings invested in working capital, and then distribute the stock to its common stockholders.

F. S. Brittain, representing the California Farm Bureau Federation, asks the Commission not to grant applicant's request. He urges, among other things, that applicant's showing has been inadequate and not in accordance with the terms of the Public Utilities Act and that the granting of the application involves the capitalization of stock discount. He takes the further position that if the application is granted, it should be granted subject to the following conditions:

(a) That the company be required to stipulate that the 6 per cent surcharge will be discontinued on all service after January 1, 1922.

(b) That the company, as of January 1, 1922, charge its surplus account and credit its special depreciation account with \$1,200,000 required to be added to depreciation in 1922 under the Decision in Application No. 2056.

(c) That the company be required to stipulate that it will not make a demand for allowance for special depreciation in the pending

valuation and rate proceeding and that it will not at any time urge in any proceeding that this special privilege granted indicates either a general approval of the Commission of stock dividends or the propriety of a return of 7 per cent on common stock.

The company can, under the law, declare dividends only when it has a surplus, and no action taken by this Commission can in any way be interpreted as a finding that applicant should pay 7 per cent dividend on its common stock, nor that part of the dividend on the common stock, if any is declared by applicant's board of directors, should be paid in cash and part in stock. A utility may desire to establish its stock on a certain dividend payment basis, but whether this can be done, depends entirely on the utility's surplus earnings. This Commission has repeatedly announced that it does not in any way guarantee the payment of dividends or interest.

By virtue of an order by this Commission, Decision No. 3484, dated July 1, 1916, Application No. 2056, applicant is required to set aside out of income, and expend in its business, the sum of \$7,000,000 within a period of seven years from January 1, 1916, which sum shall remain uncapitalized. Under the Commission's decision, the company has a right to apply against the \$7,000,000, payments made into sinking funds during the years mentioned in the Commission's decision. Under this decision, \$1,200,000 must be set aside in 1922. F. S. Brittain, in effect, asks the Commission to amend its Decision No. 3484, so as to require the company to appropriate the \$1,200,000 as of January 1, 1922. It appears that the company has been complying with the terms of the Commission's decision, and I see no reason for modifying it at this time so as to require an appropriation of the \$1,200,000 at the beginning of 1922 rather than during the current year.

It is for this Commission to determine what amount shall be allowed in rates to cover depreciation. Bearing in mind the Commission's decision in Application No. 2056 and the fact that the Commission directed applicant to appropriate the \$7,000,000 (the company not having asked for an order of such character), I see no need for insisting that the company file a stipulation agreeing that it will not call upon the Commission to make an allowance for a special depreciation in the pending valuation and rate proceeding.

Protestant asks that the company be required to stipulate that the 6 per cent surcharge will be discontinued on all service after January 1, 1922. I think a stipulation of this character is not a proper condition in this order authorizing the issue of stock. The removal of the surcharge involves the rates of the company and should be brought before the Commission in a proper rate proceeding.

Coming now to a consideration of the grounds on which F. S. Brittain urges the denial of this application.

I do not believe that this application results in either the amortization or capitalization of stock discount. It involves the issue of common stock at par. If it is granted, the company will retain in its business \$100 for every share of stock issued. The surplus which applicant intends to divert from its cash funds available for dividends to its capital stock account was obtained from applicant's business as a whole. It is common knowledge that applicant is engaged in several kinds of public utility service, namely electric, gas, street railway, water and steam heating. Applicant's surplus has resulted from the conduct of its various business activities. The rates charged have been fixed according to the law. The allegation is made that because they produce a surplus, they are too high and therefore should be reduced. No reference whatever is made by protestant to the relation between the reasonable value of applicant's properties and the surplus earnings.

Section 52 of the Public Utilities Act reads in part as follows:

(b) A public utility may issue stocks and stock certificates, and bonds, notes and other evidences of indebtedness payable at periods of more than twelve months after the date thereof, for the following purposes and no others, namely, for the acquisition of property, or for the construction, completion, extension or improvement of its facilities, or for the improvement or maintenance of its service, or for the discharge or lawful refunding of its obligations, or for the reimbursement of moneys actually expended from income or from any other moneys in the treasury of the public utility not secured by or obtained from the issue of stocks or stock certificates, or bonds, notes or other evidences of indebtedness of such public utility, for any of the aforesaid purposes except maintenance of service and replacements, in cases where the applicant shall have kept its accounts and vouchers for such expenditures in such manner as to enable the Commission to ascertain the amount of moneys so expended and the purposes for which such expenditure was made.

I am of the opinion that the Commission has, under section 52 of the Public Utilities Act, no power to authorize the issue of stock for the purpose of paying a stock dividend. It occurs to me that the Commission is authorized to permit a utility to issue stock for the reimbursement of its treasury.

I believe that the act clearly contemplates that a utility which seeks permission to issue stock to reimburse itself on account of moneys expended must make two affirmative showings: first, that the money so expended was not obtained from the issue of stock, bonds, notes or other evidences of indebtedness; and, second, that the money was actually expended for one or more of the purposes mentioned in section 52 of the Public Utilities Act and in accordance with that section. It occurs to me that considering the record in this proceeding that applicant has made an adequate showing to warrant the Commission to make an order authorizing the issue of stock covered in this application for the purpose of reimbursing applicant's treasury.

The record clearly indicates that applicant's unappropriated surplus is much in excess of \$679,976, the amount which it asks permission to capitalize through the issue of stock and that at least \$679,976 of applicant's surplus has been used in the conduct of its business and in the improvement of its service. It is a self-evident fact that a utility engaged in the character of business such as applicant is, and which business is not conducted on a prepayment basis, has need for working capital and can secure such working capital in the first instance only through the issue of stock, bonds, notes or other evidences of indebtedness. Within proper limits I regard it to the benefit of the consumers, if a utility permanently invests surplus earnings in its business. I believe that this proceeding is such a case.

I herewith submit the following form of order:

ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission for permission to issue \$679,976 par value of its common stock, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by applicant through the issue of such stock is reasonably required by applicant;

It is hereby ordered, that Pacific Gas and Electric Company be and it is hereby authorized to issue \$679,976 par value of its common capital stock for the purpose of reimbursing its treasury on account of surplus earnings invested in working capital.

The authority herein granted is subject to the following conditions:

1. Pacific Gas and Electric Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

2. The authority herein granted will apply only to such stock as may be issued, sold and delivered on or before December 31, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of February, 1922.

DECISION No. 10142.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA TELEPHONE COMPANY FOR AN ORDER FIXING JUST AND REASONABLE RATES FOR TELEPHONE SERVICE, AUTHORIZING THE FILING OF SAME WITH THE COMMISSION, FIXING A DATE WHEN SUCH JUST AND REASONABLE RATES SHALL BECOME EFFECTIVE, AND DEFINING EXCHANGES AND EXCHANGE BOUNDARIES FOR THE ADMINISTRATION AND APPLICATION OF SAID JUST AND REASONABLE RATES, TOGETHER WITH RULES AND REGULATIONS APPERTAINING THERETO.

Application No. 6285.

Decided March 4, 1922.

TELEPHONE UTILITY—RATES—SERVICE.—The Commission states that in the present case it has regarded service as of paramount importance. The order authorizing increased rates was made subject to the condition that adequate and efficient service shall be rendered at all times for all classes of service. That rates were raised in the face of admittedly unsatisfactory service conditions was due to the conviction on the part of the Commission that the only practical way of solving service conditions and of providing adequate telephone service for the people of Los Angeles was to place the company in a position where the people were entitled to receive and where the Commission could require that the company furnish adequate service.

NEW CAPITAL—COST OF MONEY—EARNINGS SUFFICIENT TO PAY.—Proofs have been furnished the Commission that there is now available in excess of the amount of new capital required by the decision in this case. The raising of this capital, it is pointed out, was due directly to the decision in this case and the view is expressed that the capital could not have been found unless the company was allowed earnings sufficient at least to pay for the cost of new money.

SERVICE—LAPSES IN—ACCOUNTABILITY.—The Commission announces that the company must be forced, if necessary, to give reasonable service. The company must be held to strict accountability for lapses in service for which it is responsible. A subscriber should not be expected to pay for service which is not rendered.

SERVICE—DELAYED INSTALLATIONS—SCHEDULE OF INSTALLATIONS—RATE REVISION.—The number of delayed installations is held to be altogether abnormal, and the company is directed to follow a schedule for bringing service to normal in various districts. If conditions have not been brought to normal on the dates specified, the commission announced it would have to conclude that the company was either unwilling or unable to provide proper service and would consider a temporary or permanent reduction in rates commensurate with poor service conditions.

DEPRECIATION—RESERVE FOR DEPRECIATION—RISKS, COMPANY MUST ASSUME.—An allowance of \$780,000 a year, it is declared, will, if set aside in monthly installments in a sinking fund at 6 per cent interest, retire the total depreciable property with a reasonable life expectancy. It is held that the company is not entitled to a reserve for depreciation to insure it against all risk, such as those attendant on inventions and discoveries, changes in popular demand and destruction of property through extraordinary casualties. Such risks, it is held, cannot be charged to the rate payers as operating expenses, but must be assumed, in part, at least, by the company.

RATE AREA—DISCRIMINATION—EFFECT OF CITY ORDINANCE OR STIPULATION.—The question of the inclusion of territory in the primary rate area is declared to go to the broad public policy of discrimination versus non-discrimination. If the primary rate area boundaries are just and fair, it is held that they should not be changed because of a city ordinance or stipulation providing otherwise. It is held that there is no justification for the inclusion of the city of South Pasadena in the Los Angeles rate area.

SERVICE—CREDIT FOR LAPSES.—For lapses of service, for a period of 24 hours or more, credit to the subscriber is ordered, the credit becoming progressively greater the longer a telephone is out of service.

SERVICE—RESTORATION OF.—The president of the Pacific Telephone and Telegraph Company, parent company of the Southern California Company, is directed to go to Los Angeles and take personal charge until service conditions are restored to normal.

Arthur Wright, H. D. Pillsbury and James T. Shaw, Pillsbury, Madison and Sutro, of counsel, for Applicant.

J. E. Stephens, Milton Bryan and H. Z. Osborne, Jr., for City of Los Angeles.

Kemp, Mitchell and Silberberg, by *John W. Kemp and Carlos S. Hardy,* for Chamber of Commerce of Los Angeles.

Hartley Shaw, for City of Glendale.

Wm. Hazlett and R. V. Orbison, for City of South Pasadena.

John F. Imel, for Culver City.

Mott and Cross, for Goldwyn Producing Corporation.

R. G. Loucks, in propria persona.

O. E. Winburn, for City of Watts.

Ben W. Utter, for County of Los Angeles.

Mr. Schwab, for City of Beverly Hills.

D. W. Evans, for Federated State Societies.

BY THE COMMISSION.

OPINION AND ORDER ON REHEARING.

The Commission, in this application, made its decision on December 14, 1921 (Decision No. 9864). Applications for rehearing were filed on December 31, 1921, by the city of Los Angeles and on January 20, 1922, by the city of South Pasadena.

The city of Los Angeles asked that the effective date of Decision No. 9864 be postponed pending the determination of the application for rehearing and that the order authorizing the Southern California Telephone Company (hereinafter referred to as the Company) to make the rates established by the Commission effective as of January 1, 1922, be annulled.

On December 31, 1921, this Commission ordered the granting of a rehearing and ordered further that the order made on December 14, 1921, should remain in full force and effect and that neither the provisions relative to rates nor any of the other provisions or requirements should be suspended or postponed by the order granting the rehearing.

Hearings were held on January 23 and 27, 1922, additional testimony was heard and new exhibits were introduced, the matter was submitted and is now ready for a decision.

1. Position of the City of Los Angeles.

The grounds upon which the city asks for rehearing fall into two classes: one relating to service, the other relating to matters of rate base, revenues and expenses. Of the two, the matter of service is of the greater importance.

The city maintains that all rates are based upon the proposition that adequate service is being rendered to persons depending upon the

utility seeking such rates, and that any charge made or payments required by a public utility which has not rendered the service for which such charge or payment is required is unlawful and without justification; that the company is not now and has not, for the preceding period of at least thirty (30) days in particular, rendered reasonable or dependable service to its subscribers and that there is no reasonable expectation of improvement and no definite assurance of any kind whatever that any change in present conditions is contemplated by the company.

The application alleges that during a recent storm more than twenty thousand (20,000) telephones in the city of Los Angeles had been out of use for considerable periods of time; and that the entire system has so completely failed as to make it ineffectual and inadequate to meet the needs of the public and the requirements which the people of the community have a right to expect and to rely upon from its telephone system; that many hundreds of individual telephones have been out of order and useless for such a length of time as to justify in equity and good conscience, a refund in the rental charge for the current month and that the number of subscribers so affected is so large as to make it impracticable to give them individual attention, and the city asks that this Commission take this situation into consideration in connection with the rate proceeding. The city alleges that one of the principal reasons for the breakdown in the telephone system and failure of service was the failure of the company to replace old worn-out and inadequate cables and equipment and that this situation was the direct result of the failure of the company to use the depreciation fund for the purpose for which it was originally intended, to wit: the replacement of worn-out and inadequate portions of the plant.

It is urged by the city that the service rendered by the company has been steadily growing worse for at least one year and that the service rendered at this time is so deplorable and so far below a normal and reasonable service that the original rates are more than a just, fair, and reasonable compensation therefor; and that any increase in the rate without definite and radical requirements toward improved service as conditions precedent to such increase would be unreasonable, unfair, and unjust.

The city alleges that on the date of the filing of the application for rehearing there were still unfilled 11,596 orders for telephones on the books of the company by persons not now receiving service, in addition to 5,635 who require some change in service.

The application calls attention to the fact that, in March, 1921, the company assured this Commission and the city that the list of unfilled

orders would be reduced to a normal condition by October, 1921, and that thereafter persons ordering service would receive same within approximately one week; that this promise was not fulfilled and that the number of unfilled orders is now in excess of the number at the time when the promise was made.

The application calls attention to the further fact that at an engineering conference held just prior to the last formal hearing in the rate proceeding, the company's representatives gave assurance that a normal condition would exist by March, 1922, but that since then an official of the company had stated to the representative of the city of Los Angeles that the company did not mean to give assurance of a normal condition of the unfilled order list by said date and that the prediction made in November, 1921, would not be fulfilled.

The city alleges that it is impossible for persons desiring telephones, either for residence or business purposes, to receive any assurance that, or when, they will be able to receive service, and that the absolute needs of the community require radical improvement in this particular, and the application expresses the lack of confidence on the part of the city in the promise of the company and expresses the opinion that the experience had with the company in the past indicates beyond question that the needs of the city will not properly be met unless an increase in rates is made subject to definite requirements as to installation and general service as conditions precedent to such increase.

With reference to grounds other than unsatisfactory service, the city objects to the addition to the rate base of the sum of \$6,738,000, representing expected additional capital investment during the coming year and alleges that the inclusion of this amount is improper, unfair, and unjust; that there is no assurance of the amount that will be invested, or of the time when such investment may be made. The city suggests that two sets of rates should be specified in an order by this Commission, one to take effect after the performance of certain conditions affecting service and the other after it has been shown that a certain definite amount of additional capital investment has been made.

The city again calls attention to the division of toll revenue and alleges that the record shows this division to be unfair and unjust to the ratepayers in Los Angeles.

To substantiate its position in the matter of service, the city introduced in evidence between 2000 and 3000 letters of complaint, written by Los Angeles telephone users, and dealing with many causes of unsatisfactory service. A large number of witnesses with service complaints were also heard. There was also introduced in evidence, city's Exhibit No. 2 on rehearing, being the report of the chief engineer of

the board of public utilities of the city of Los Angeles dealing with service conditions, the matter of the poor condition of the company's physical plant, and the matters of toll revenues, expenses, rate areas and rates. It may be said that in this exhibit the city reiterates and amplifies the position taken on these matters at the time of the original hearing.

Service.

There has never been any doubt in the mind of the Commission during the entire course of this proceeding, and in fact prior to this proceeding, that the matter of service was and still is of paramount importance. We made reference in Decision No. 9864 to the service investigation instituted on our own initiative in Case No. 1531, which case is still pending and will be kept open in order that further careful attention may be given to this matter. We said, in the decision referred to:

Service conditions must be improved and means must be found to meet more promptly and more satisfactorily than in the past the demand for new telephones that is bound to continue at a rapid rate in Los Angeles. The rates fixed in this decision will make it possible for applicant to render a high-class telephone service.

And the order authorizing increased rates was made subject to the condition that adequate and efficient telephone service shall be rendered at all times for all classes of service. We are fully aware of the present unsatisfactory telephone service conditions in Los Angeles. That the rates were raised in the face of such conditions was due to the conviction on the part of the Commission that the only practical way of solving the service conditions and of providing adequate telephone service for the people of Los Angeles was to place the company in a position where the people were entitled to receive, and where the Commission could require that the company furnish, adequate service. Nothing developed during the rehearing to change this conviction. Unless practicable means can be found to provide Los Angeles, with its unprecedented growth, with adequate telephone service, not only for the present time but for the years to come, we are convinced that there will be a serious loss and a handicap to the continued prosperity of the city.

The Commission's order in this case, we are satisfied, has already provided the only practicable means to overcome these difficulties.

The service, while still below normal, is showing a material improvement as compared with conditions before the prior decision in this case. Telephone users in Los Angeles should, nevertheless, realize that for some time to come it will not be possible to furnish normally satisfactory service. The reasons for this situation we have discussed in

Decision No. 9864. Only in part, can the company be held responsible for the present condition.

Los Angeles does not yet sufficiently realize the consequences of the fact that in the last few years it has made a greater demand on the telephone system, both as to existing and additional service, than any other city in the United States, without exception. And it appears that these large demands are continuing.

The city's allegation that there is no assurance of an investment on the part of the company of the sum of \$6,738,000 during the present year for new facilities, is not borne out by the facts. Proofs have been furnished satisfactory to the Commission, that there is now available not merely the sum mentioned for capital facilities but a very considerably larger sum (in excess of \$9,000,000). The raising of this new capital was due directly to the decision in this case and we are satisfied that the capital could not have been found unless the company was allowed earnings sufficient, at least, to pay for the cost of new money. This Commission will insist that this money be expended for the betterment of the service as rapidly as a due regard for physical possibilities and considerations of reasonable efficiency will permit.

We are in accord with the position of the city that the company must be expected, and must be forced, if necessary, to give reasonable service, and the Commission intends to make use of every means within its power to have service restored to a normal and efficient standard as rapidly as possible. The rates fixed by the Commission are adequate to provide such service. We are further of the opinion that for lapses in service, for which the company is responsible, it should be held to strict accountability. A subscriber should not be expected to pay for service which is not rendered. Some simple workable rule should be adopted to cover a lapse of service and the subscriber should be credited with an appropriate amount for the loss of service suffered. This should be done voluntarily by the company, and the subscriber should not be put to the trouble and necessity of having to prove the justness of his complaint. The order in this decision will require the company to adopt a rule to accomplish this purpose.

Nothing, however, can insure permanent good service except entire reconstruction of inadequate plant facilities and construction and installation of new facilities to meet the requirements for additional service. A considerable period of time must necessarily elapse before such reconstruction and new construction can be completed. We have given much thought to the best possible service improvement and construction program that may be expected of the company and a number of conferences on this subject have been held by us with the company's

officials and our own engineers. While there is a distinction between normal service to the present subscribers and the service desired by those who have ordered telephones and are waiting for installations, we recognize that these two factors are interdependent and that it will not be possible to speak of good or normal telephone service in Los Angeles until both the congestion caused by the abnormal number of delayed orders has been relieved and the service to the present subscribers has been improved. The principal cause for poor service conditions with present subscribers is found in the reconstruction now going on in all exchange districts, principally the Main-Olive districts comprising the business sections of the city of Los Angeles. This "backbone construction," we are satisfied, can be completed by the company, if every possible effort is made, not later than June 15 of this year. By that time all reconstruction in central office equipment and outside plant in all exchange districts should be completed and the service to all present subscribers should then be normal. June 15 of this year, therefore, we consider as the latest date when abnormal plant conditions and deferred maintenance may be given by the company as a justifiable excuse for subnormal service. The automatic adjustment of subscribers' bills prescribed in this decision is designed to allow a proper credit to subscribers for lapses of service during this period of inevitable inconvenience and, also, as an incentive to the company to exert every effort to bring speedily about normal service conditions.

With reference to delayed installations and other held orders, the reports furnished by the company show that at the end of February the company held for all Los Angeles exchanges 12,200 delayed installations. In addition to these held orders, the company estimates that, from now on, and during the year 1922, it will have approximately 35,000 new business orders, and also, in addition, over 25,000 other orders, principally number changes.

The number of delayed orders for installation is altogether abnormal. The number of orders held normally by the company in Los Angeles at any one time, we conclude, should not exceed 4000. As long as the number of held orders exceeds this figure the service conditions can not be considered normal or satisfactory.

The company, upon the Commission's demand, has furnished an estimate of the number of normally held orders in each district area (the total not to exceed 4000) and of the time required in each district to reach this normal condition.

This schedule is as follows:

District	Number of orders held under normal conditions	Date it is estimated normal conditions can be reached
Main-Olive	650	July 31, 1922
Boyle	235	June 30, 1922
Lincoln	100	June 30, 1922
Garvanza	130	July 15, 1922
Hollywood	535	November 15, 1922
Ramona		
Vermont	250	July 15, 1922
Quincy		
Terminal		
West	150	April 30, 1922
Wilshire	700	August 30, 1922
Union		
Kingsley	650	July 30, 1922
South		
Yale	250	September 30, 1922
Adams	175	July 1, 1922
Jefferson	25	Normal
Normandie		
Occidental	150	September 30, 1922
Prospect		
Total	4,000	

Normal conditions in regard to present service as well as to installations should, therefore, exist in the greater part of the entire Los Angeles exchange area by the end of July of this year. A longer delay appears to be inevitable in the Wilshire-Union-Kingsley district (normal conditions estimated by the end of August), in the Adams and Prospect districts (normal conditions estimated by the end of September), and the most serious delay will be in the Hollywood territory, where the delay in installations is estimated to be cleared by November 15. The Commission hopes it will be possible to expedite this service program and that the company will be able to improve on the dates set down. At all events, the company will be held to this schedule. If conditions have not been brought to normal on the dates specified and if it should become apparent that there is no likelihood of the company living up to the program as here set down, the Commission will have to conclude that the company is either unwilling or unable to provide the service its subscribers are entitled to and a temporary or permanent reduction in the telephone rates commensurate with the poor service conditions will promptly be given consideration.

To insure carrying out the construction program we shall make it a condition of this order that the president of the Pacific Telephone and Telegraph Company, the concern in control of the Los Angeles Company, shall immediately go to Los Angeles and personally take charge

of construction and operation, to the end that this Commission may know definitely where responsibility may be placed if failure should occur. It is not our purpose to suggest interference with the efficient and loyal construction and operating organization of the company in Los Angeles. There has become apparent, however, the lack of definite and final authority on matters of importance requiring immediate attention in Los Angeles, and the placing on the ground of the official having ultimate authority in the organization will undoubtedly promote expedition and efficiency in the completion of the service and construction program.

We have also insisted that the claimed superior engineering and managerial organization of the American Telephone and Telegraph Company in New York (to whom the Los Angeles Company pays a certain amount for services of this nature and for which purpose an allowance was made in our prior decision in this proceeding) be made available to the fullest extent for the special problems confronting the company in Los Angeles.

The American Company, with whom rests the ultimate control and ownership of the Los Angeles and the Pacific companies, advertises itself throughout the land as a utility at all times ahead of the country's telephone requirements and as a model of corporate organization and efficiency. In Los Angeles, although forewarned, the controlling company in the past has failed to make a reasonable estimate of the city's growth and its telephone requirements, but it now seems to be aware of the extent of the work confronting it. Adequate funds, material and men have been provided and there is evidence that in a reasonable time good service will be reestablished.

It must be remembered that we have no jurisdiction over the American Company in New York. All this Commission is able to do is to regulate the amount that is to be allowed in operating expenses as payment to the parent company for service rendered, and this amount should be in direct proportion to the value of the service received.

As a result of our insistence, several special construction and service engineers from the American Company, including the assistant chief engineer, are in or on their way to Los Angeles and will remain there, giving their entire time to this work, until the program here outlined has been completed.

The company will be ordered to make monthly progress reports to this Commission, showing fully the status of the work.

The city of Los Angeles, in its application for a rehearing, expresses the opinion "that there is no reasonable expectation of improvement and no definite assurance of any kind whatever, that any change in

present conditions is contemplated by the said Southern California Telephone Company." In view of the action outlined in this decision and of the measures either already undertaken or about to be undertaken by the company, the position of the city, as stated in the application, can not be maintained, in our opinion.

Rate base, toll apportionment, rate areas, revenues and expenses.

With reference to the other matters and allegations in the city's application for rehearing, but little can be added to what has been said in our opinion in Decision No. 9864.

The Commission's views on questions of rate base, revenues and expenses, on depreciation, toll apportionment, rate area, and relations with affiliated companies have been substantially set forth. All of these matters have had the most thorough and painstaking consideration of the Commission and no evidence has been introduced on rehearing and no new facts have come to the Commission's attention justifying a finding on these points different from that made in the original order.

The city objects to the addition to the rate base of the sum of \$6,738,000 representing *additional capital investment* during the coming year. It alleges that the inclusion of this amount is unfair and unjust because there is no assurance of the amount that will be invested or of the time when such investment may be made.

The city is in error in these allegations. The new capital from outside sources, and in no sense, either directly or indirectly, contributed by the ratepayers, amounts, as a matter of fact, not to \$6,738,000, as estimated in our original decision, but to a substantially larger amount and in excess of \$9,000,000. The Pacific Telephone and Telegraph Company has satisfied the Commission that this money is actually available at this time and will be expended as rapidly as it can possibly be done. The construction program set out above, furthermore, definitely contemplates and fixes the expenditure of this capital within definite limits of time and we have no doubt that by far the greater portion, if not all, of the \$9,000,000 of new money will have been put into this plant within less than twelve months from the date of this order. The monthly reports the company is required to make will provide for definite assurance on this point.

The city again urges the Commission to order, or at least take into consideration for purposes of revenue estimates, a different *apportionment of toll revenue* between the Los Angeles Company, the Pacific Company, and other companies. The Los Angeles Company now receives 30 per cent of the total originating toll business going to the Pacific Company and 20 per cent of the same business going to the

United States Long Distance Telephone and Telegraph Company. The difference between the 20 per cent and 30 per cent is accounted for by the fact that the United States Long Distance Company furnishes its own operators, a certain amount of its own equipment, and does its own billing, causing a correspondingly lesser expense to the Los Angeles Company.

In the gross revenue estimate of \$8,300,000 used by us in Decision No. 9864 under the rates fixed in that decision, and covering the revenues of the Los Angeles Company for the year 1922, there is included an estimate of toll service revenue of \$410,000. This is made up of \$60,000 from the United States Long Distance Company (under the 20 per cent apportionment) and \$350,000 from the Pacific Company (under the 30 per cent apportionment). Assuming that the proportion to the Los Angeles Company was increased by 10 per cent for each of the two items, the annual gross revenue would be increased by \$41,000. Assuming a 20 per cent increase for each item, the additional gross revenue would amount to \$82,000. It is to be noted, therefore, that with a gross revenue to be raised from rates of \$8,300,000 this matter of possible change in the total apportionment is a negligible quantity and could not possibly have an appreciable effect on the rates, amounting as it does to less than one per cent of the total revenue, if the maximum apportionment suggested by the city was made to the Los Angeles Company. We have not sufficient evidence in this proceeding to warrant a finding on a more equitable distribution of toll revenue than now exists and having in mind the relative unimportance to the ratepayers, in this particular case, we are compelled to maintain our position that this matter should rest until a state-wide determination can be made. It is our purpose, however, to inquire into this question without delay.

The city urges us to make more stringent provisions than are contained in Decision No. 9864 for the supervision and regulation by this Commission of the reserve allowed to insure against *depreciation*. The Board of Public Utilities of Los Angeles (in city's Exhibit No. 2 on rehearing), supporting the city attorney's petition for rehearing, states:

We must strongly urge that supervision and regulation be made a part of the order in Decision No. 9864, especially as it applies to the expenditure of \$780,000 for the replacement of wornout plant and equipment, and that the supervision and regulation of such reserve fund shall be under the joint control of the California Railroad Commission and the Board of Public Utilities. We believe this action absolutely necessary for the protection of telephone users.

As conditions are at the present time, the subscribers have absolutely no protection against the neglect on the part of the company to replace old and wornout inadequate equipment; they have no protection against the lack of service resulting from a failure to replace inefficient equipment. In other words, the condition per cent of the Southern California Telephone Company is an unknown quantity. We do not admit for one moment that the condition per cent of the property has nothing to do with the service rendered by the company, or with the matter of rates.

We cannot agree that the reserve fund may be used by the Company for any purpose whatever which the company may find convenient. It would seem to us that the only guarantee of good faith in the expenditure of the money set aside for a particular purpose and included in the rates for that purpose is that the Commission should have charge both of the debits and credits to the depreciation reserve fund.

We contend that the Commission should be the judge of obsolescence whenever a radical change is proposed. We do not contend that either obsolescence or inadequacy should be borne entirely by the ratepayer.

The city contends that no one can prophesy the exact amount necessary for the replacement of property or keeping intact the original investment. We contend that a reasonable amount over and above the actual current replacements to take care of emergency withdrawals should be set aside annually and placed in a separate fund, together with the interest thereon, and the fund put under the supervision of the California Railroad Commission and used for the only purpose for which it was ever taken out of the rates—namely, the replacement of wornout plant, and keeping the original investment intact. Should it become necessary at any time, in the opinion of the Commission, to increase the annual allowance for depreciation, or should the fund accumulate too rapidly to take care of current replacements, then the Commission can increase or reduce the annual payments. By this method there will be no tendency to neglect replacements and use the money for some other purpose.

We have made an allowance in the prior decision, under operating expenses, for a depreciation annuity of \$780,000 per year, which amount, if set aside in monthly installments in a sinking fund, will, at an interest rate of 6 per cent, retire, in our opinion, the total depreciable property with a reasonable life expectancy. We do not agree with the company that an allowance must be made, under the guise of a reserve for depreciation, to insure the company against all risk, including such risks, for instance, as must be reckoned with through the possibility of new inventions and discoveries, changes in popular demand and losses suffered through destruction of property by extraordinary casualties. In our opinion these and other kinds of risks inherent in the inevitable uncertainties of economic conditions can not in justice and fairness be charged in advance to the ratepayers as "operating expenses" but must be assumed, in part, at least, by the company. It is because of the existence of such risks that an allowance is made for a fair return over and above operating expenses, including depreciation..

The depreciation allowance we have made will take care of ordinary wear and tear not covered by current repairs and will allow the property to be replaced, in order that good service may not be interrupted, at the end of the natural life of the various items of plant.

We know that in the past this company and its predecessor owners of existing plant have not at all times set aside the proper amounts required for a depreciation reserve. At times there was set aside too much and at other times too little. It is also established that at times moneys allowed for depreciation were used for purposes other than they were set aside. For reasons discussed in the prior decision we have not insisted, in this case, upon the establishment of a separate

depreciation fund, nor have we established definite rules and regulations governing the expenditure of depreciation moneys. The contention of the company that we have no jurisdiction to do this, because of the accounting classification prescribed by the Interstate Commerce Commission, has not in any sense been persuasive upon the Commission. There is clearly an essential difference between an accounting system and rules governing the setting aside and the expenditure of certain specific moneys devoted to specific purposes. It would be just as logical for the company to say that the amount of wages to be paid, or the prices of materials, or the rate of fair return, should be regulated by purely accounting considerations, as to urge that the proper purposes and expenditure of the depreciation fund should be controlled by such considerations. If, in spite of these conclusions, we did not insist upon a closer supervision and regulation of the depreciation fund in this case, it was because we know that at the present time a large portion of this property is under practical reconstruction, that very large additions and betterments are being made and that, in our opinion, under the service program set out above Los Angeles will, within a short time, have an excellent telephone service. The powers of this Commission, we believe, are sufficient to insure the continued maintenance of adequate plant and we know that this power will be exercised. If there should be any indication to the contrary, and if it should appear to the Commission that moneys allowed by us to take care of depreciation are diverted by this company to other purposes, definite rules and regulations to govern the depreciation fund will promptly be established.

The suggestion is made by the city that two sets of rates be established by us at this time: one to take effect now and the other after it has been shown that a certain definite additional capital investment has been put into plant. This suggestion is made on the assumption that the Commission has established rates under which the present subscribers are compelled to pay a return on money to be expended principally for the benefit of subscribers not yet served. This is a misapprehension. The gross revenue of \$8,300,000, which it is estimated the company will secure from the rates now in effect in the year 1922, is predicated upon a revenue from 170,310 exchange revenue stations; that is to say 19,600 stations more than were in existence on March 31, 1921, the date on which the rate base figures are based. In other words, in order to secure the revenue from the number of stations estimated for 1922, the company must expend additional capital in the amount set out in the decision. If it does not expend this capital it will, automatically, not receive the estimated revenue, because it will

not have the estimated number of subscribers. If a larger number of subscribers is added to the company's list of subscribers in 1922 than was estimated by us (and this it now appears will be the case), the company will have to expend a correspondingly larger amount of new capital and this, also, will be the case as established by the fact that in excess of \$9,000,000 of new capital must be expended instead of the \$6,738,000 included in the rate base of \$23,800,000.

It is our conclusion that the order in this decision will secure to the city of Los Angeles normal and adequate telephone service within the shortest possible time and that the rates heretofore fixed in this proceeding, provided the Commission's order is fully complied with in good faith by the company, are just and reasonable rates and as low, or lower, than the rates obtaining for similar classes of service in cities comparable to Los Angeles in population and telephone development. We conclude that the rates fixed should not be reduced until it has become apparent to the Commission that the company is either unwilling or unable to comply with this order.

2. Position of the City of South Pasadena.

South Pasadena objects to what it calls the "zoning of the city for rate-making purposes" and asks that one rate for each class of service be established over the whole of the city and that the rates so fixed be made to conform to the rates fixed for similar service in the Los Angeles primary rate area. South Pasadena also asks that the company be made to live up to the terms of a certain city ordinance (No. 460, dated January 15, 1917). This ordinance contains the conditions under which consent was given to the sale, transfer and assignment by the Home Telephone and Telegraph Company to the Southern California Telephone Company of the property and the franchise used by the former Home Company in its operations in South Pasadena. The ordinance is made part of South Pasadena's application for rehearing.

The transfer of the South Pasadena franchise was one of the necessary steps to bring about consolidation in 1916-1917. In this Commission's consolidation decision, No. 3845, heretofore referred to, there was mention of this matter (Opinions and Orders of the Railroad Commission of California, Vol. 11, page 852):

Ordinance No. 6959 (new series), of the city of Los Angeles, being the ordinance under which the Home company exercises its franchise in the city of Los Angeles, Ordinance No. 382 of the city of South Pasadena, being the ordinance under which the Home company exercises its franchise in the city of South Pasadena, and Ordinance No. 141 of the city of Watts, being the ordinance under which the Pacific company exercises its franchise in the city of Watts, all provide substantially that the grantee of the franchise shall not assign the franchise or any right thereunder or the plant installed thereunder unless the consent of the public authority granting the franchise has first been secured. Such consent has not as yet been secured by the petitioners herein, nor has application therefor been made

to the respective municipalities. As it is proposed under the plan herein presented to transfer to the Southern company the franchises granted by each of the three said ordinances, the necessary steps must of course be taken to secure the consent of the cities of Los Angeles, South Pasadena and Watts, if this plan is to be consummated.

Among other things, Ordinance No. 460 of the city of South Pasadena requires a stipulation from the Southern California Telephone Company that during a period of five (5) years from the date of the ordinance the company

shall not make application to the Railroad Commission of the State of California, nor to any other public authority for any increase in telephone rates now in effect in the city of South Pasadena.

The stipulation also provided that

Southern California Telephone Company shall promise and agree that during the remainder of said period of the life of said franchise granted by said Ordinance No. 382, Southern California Telephone Company, its successors and assigns, will furnish and render to all the subscribers for telephones operated by Southern California Telephone Company, its successors or assigns, in the city of South Pasadena, as good telephone service between the telephone subscriber stations furnished said subscribers in the city of South Pasadena and the telephone subscriber stations operated by Southern California Telephone Company, its successors or assigns, for subscribers in the city of Los Angeles, as has been furnished and rendered subsequent to May 26, 1913, and as is now furnished and rendered by Home Telephone and Telegraph Company, and with connections between said subscriber stations in the city of South Pasadena and the central exchange to be maintained by Southern California Telephone Company, its successors and assigns, in the city of Los Angeles, as direct as now maintained between the same by Home Telephone and Telegraph Company; and that Southern California Telephone Company, its successors or assigns will not furnish, extend or render any telephone service mentioned in this paragraph, to any of its said subscribers over, upon or along any toll line.

The company, it appears, filed the stipulation accepting the conditions laid down in this ordinance. The city of South Pasadena now relies on the ordinance and on the stipulation. The city attorney in his argument (Tr. page 261) says:

South Pasadena, under all the circumstances, should be in the primary rate area, for there is not one word of evidence in the record here showing that we should be kept out of it for the reason of additional cost of operation, additional length of cables or for any other reason. There is absolutely no testimony in the record which warrants South Pasadena being treated differently than any other portion which is now included in the primary rate area. * * * However, if the Commission in its wisdom should see fit to put us outside, to keep us outside of the area, then the increase in rates we should pay above that granted the company in the primary rate area should be very small indeed, because there is no evidence, Mr. President, warranting any greater rate being charged the users in South Pasadena. Further than that, there was arbitrarily established, and it seems to me without any reason or excuse whatever, by the company six zones in South Pasadena, which was shown by the exhibits which we offered in evidence, a quarter of a mile wide, the first one next to the boundary line of Los Angeles, and the sixth zone in the northeast section of the city of South Pasadena, each zone a quarter of a mile wide, and the one-party business rate in the first zone being \$9 and in the sixth zone \$12, while that territory is served by the substation which is in the center of the city. And we think that establishment then is without any legal or business justification. If we were to be put in a zone by ourselves it should be one zone and not six zones arbitrarily established because we happen to be adjacent to the primary zone.

Under the provisions of the Public Utilities Act this Commission is bound to establish fair and nondiscriminatory rates and it can not be controlled or limited in the exercise of that duty by franchise conditions, stipulations, or agreements of any kind, if such contracts run counter to the superior nondiscriminatory principle established by law. We have, in a number of decisions, discussed the theory and application of this principle, it has been passed upon by the Supreme Court of this state and by the Supreme Court of the United States, and the ordinance of South Pasadena here referred to and the stipulation filed by the company can not, therefore, be controlling upon this Commission. We have no thought, of course, to set aside or interfere with contracts of this nature unless such agreements are against the sound public policy indicated above. In this instance the stipulation agreeing not to make application for increased rates for a period of five (5) years was similar to a like agreement this company had made with the city of Los Angeles. The Los Angeles agreement was considered as reasonable by the Commission and a similar provision was incorporated in its order in the consolidation proceeding. When the company made application for increased rates on November 9, 1920, it is true, a literal compliance with this agreement was not insisted upon. With the consent of the Los Angeles city authorities it was agreed that a hearing of the application might be undertaken without unfairness to the telephone users, since necessarily a considerable period of time, and probably not less than a year, must elapse before a proceeding of such magnitude could be concluded. As a matter of fact the new rates did not go into effect in Los Angeles until January first of this year, almost two months after the lapse of the five-year period.

We are of the opinion that after the company voluntarily entered into its stipulation with the city of South Pasadena covering the five-year period it will be willing to live up to the terms of that stipulation with exactly the same degree of good faith that it did in the case of the city of Los Angeles. Counsel for the company admits that the question of waiving the five-year time limit was never taken up with South Pasadena as it was taken up with Los Angeles, and says (Tr. p. 277) :

Now, Mr. Hazlett, coming finally to your point I will say that you are quite right, it was not taken up with the city of South Pasadena, which is the first time I have touched the subject you were just referring to.

No question of general public policy is involved in this matter of the five-year stipulation and we believe that South Pasadena was entitled to enjoy, as did Los Angeles, a full five years of the old rates subsequent to January 15, 1917, the date of the voluntary agreement between South

Pasadena and the company. The order will provide, therefore, for a refund to South Pasadena subscribers of the amount in question for the first half of the month of January, 1922.

An entirely different situation confronts us in the question whether South Pasadena should be included in the Los Angeles primary rate area because the ordinance stipulation cited above is construed by the city authorities as contemplating such inclusion. This question goes to the broad public policy of discrimination versus nondiscrimination. If the primary rate area boundaries, as drawn in the previous decision in this case, are just and fair boundaries, they certainly should not now be changed by this Commission because of the existence of a city ordinance or a stipulation.

We have given very careful consideration to the testimony introduced in this matter at the rehearing. There is no justification, in our opinion, for the inclusion of the city of South Pasadena within the Los Angeles primary rate area. If quarter-mile circles are drawn on the primary rate area map, taking the intersection of Sixth street and Broadway as the center of the Los Angeles downtown section, the primary rate area boundary in the South Pasadena district is seen to be from $5\frac{1}{2}$ miles to 7 miles from the center. This is a distance much greater than the average distance from the center, which ranges from 3 miles in an easterly and southerly direction to over 7 miles in a westerly direction in the Hollywood section, where the maximum distance from the center occurs at about $7\frac{3}{4}$ miles. In only a few places does the primary rate area extend as far from the center of the city as it does in the direction of South Pasadena, and in no sense can it be said that South Pasadena is discriminated against.

There is merit, however, in the contention of the city that the quarter-mile zoning, resulting in six different rates for the comparatively small territory occupied by this community, is an inconvenient and objectionable system and results in apparent discrimination between different telephone users receiving the same class of service within this community. The quarter-mile differential is established in order to spread equitably, as nearly as may be, the cost of giving telephone service outside the primary rate area in sparsely settled territory where the company is obliged to make extensions to new subscribers desiring access to the primary rate area without the payment of toll charges. The farther such new lines extend from the primary rate area boundary, the greater, as a rule, is the investment and the cost of service. This state of facts does not obtain, however, when immediately adjoining the primary rate boundary a compactly settled community is, or comes into, existence and a telephone development as dense as in the primary rate area has become a reality. Where

such a condition is found, it is obviously altogether different from the sparsely settled, scattered suburban development that is going on, as a rule, in the neighborhood of all large cities. The question in such a case must be whether the settled community shall be included in the adjoining or existing primary rate area, whether a new and independent primary rate area with local exchange rates shall be established or whether, pending either of these two developments, the community shall be joined to, though not included with, the existing primary rate area, at uniformly higher rates, depending on the class of service, and calculated to reimburse the company for the greater cost of service.

In the case of South Pasadena we believe that at this time the community be given the option of either of the last two alternatives. The evidence indicates a preference for inclusion within Los Angeles area and opposition to a separate exchange area with local rates and toll charges for Los Angeles communications. The wishes of a community of subscribers as to the kind of service they prefer should be controlling, provided discrimination with other subscribers does not result and further provided, that the rates fixed represent a fair proportion of the cost of service. We believe these wishes can be best met, with entire fairness to all subscribers and the company, by providing a choice of local South Pasadena exchange service (at lower rates) with toll rates to Los Angeles, and of exchange service giving access to the entire Los Angeles primary rate area (at higher rates and without the payment of Los Angeles toll charges). The subscriber whose interests are primarily within the smaller exchange area will prefer the former class of service and should not be forced to pay for larger facilities, when he has no use for them.

There is nothing in the record to show to what extent the cost of service to South Pasadena subscribers who wish to avail themselves of exchange service within the Los Angeles primary rate area is greater than the cost to subscribers located in different parts of Los Angeles. With this condition in mind we propose to fix uniform charges, for the larger service, at rates somewhat higher than obtaining in the Los Angeles area. The rates fixed are higher by approximately, the mean between the rates applicable within the Los Angeles primary rate area and the rates applicable in the so-called zone 6 of South Pasadena. The computation is made from the business center of South Pasadena, a location about three-quarters ($\frac{3}{4}$) of a mile from the nearest point on the Los Angeles primary rate area boundary. It will only be necessary to fix rates for individual and 2-party lines for both business and residence service and for 4-party line residence service, and all other rates and charges will apply in South Pasadena the same as in the Los Angeles primary rate area and as fixed in Decision No. 9864.

A separate rate schedule will be ordered for the South Pasadena local exchange service. This local service will be rendered in a primary rate area identical with the territory within the corporate limits of the city of South Pasadena.

3. Petition of Atwater Park.

There was filed with the Commission by the city attorney of Los Angeles a petition of telephone subscribers in the so-called Atwater section within the corporate limits of the city of Los Angeles who, prior to the first decision in this case, were in the primary rate area of Los Angeles.

It is now proposed by the company to include this territory in the Glendale primary rate area, with the result that toll charges will accrue for Los Angeles service.

The petitioner's business and social intercourse, it appears, is with the city of Los Angeles, of which they are residents, and they have no interests in the city of Glendale. An inspection of the rate area map shows that a break is made in the rate area boundary, excluding this particular small section. From the standpoint of economy and efficiency, as far as the company is concerned, the development in this territory can better be served from the Glendale exchange instead of from one of the Los Angeles offices. It appears that the company, on its own accord, in the month of January, in this territory, has continued the Los Angeles service at the Los Angeles rates and that it was proposed to take up the situation with each individual subscriber, with a view of ascertaining the subscriber's views. This small group of subscribers, it is apparent, is practically unanimous in its desire to be included within the Los Angeles area. We conclude that this small section should be taken into the Los Angeles primary rate area and that the boundary should be adjusted as prescribed in the order. This adjustment appears the more reasonable since the extreme point of the revised boundary in this section will be within the five-mile limit from the center at sixth street and Broadway.

After giving full consideration to all the matters presented on rehearing and after carefully reviewing our original decision in this proceeding, we conclude that the following order shall be made:

ORDER ON REHEARING.

Application for rehearing having been filed by the city of Los Angeles and by the city of South Pasadena, parties to the above entitled proceeding, and said applications having been granted, a rehearing having been held, and the Commission basing its conclusions on the foregoing

opinion, as well as on the opinion and order set out in Decision No. 9864 heretofore made in this proceeding, and on the entire record in these applications;

It is hereby ordered, that the rates and classes of service heretofore ordered in this proceeding in Decision No. 9864 shall remain in full force and effect, subject to the following conditions and modifications:

A. In the matter of service.

(a) Credit allowance for lapse of service:

The company shall immediately make arrangements to provide for automatic credit allowance to subscribers in all cases of lapse of service, such credit allowance to be governed by the following rules:

Rules governing credit allowance to be made by Southern California Telephone Company to subscribers in connection with service interruptions for period of twenty-four hours and over (prescribed by California Railroad Commission in Order No. 10142, dated March 4, 1922, effective March 4, 1922).

1. The company will allow subscribers credit, on the basis prescribed in the following paragraph, in all cases where telephones are "out of service" for a period of twenty-four (24) hours or more from the time the fact is reported by the subscriber or detected by the company.

2. Credit will be allowed on the following basis:

Period out of service.

1 to 3 days, inclusive.

After the 3d day, 4th to 7th day, inclusive.

After 7 days, and from 8th to 14th day, inclusive.

Credit due subscriber.

1/30 of monthly exchange service bill for each separate day.

1/20 of monthly exchange service bill for each separate day.

1/10 of monthly exchange service bill for each separate day.

When credit due subscriber, under this rule, is equal to total amount of monthly bill, no further allowance shall be made for any one calendar month. If lapse of service continues during more than one calendar month, the computation of credits shall begin anew for each separate calendar month, provided, however, that for a lapse of service continuing over 14 full consecutive days (even when extending from one month into a second month), credit shall be allowed equal to a full month's bill.

"Out of service" will be taken to exist in all cases where the subscriber is unable to call out.

3. The "out of service" credit allowance shall appear on the first monthly bill rendered all subscribers following the "out of service" period, provided the trouble is reported by the subscriber or detected by the company and cleared on or before the twenty-fifth of the month.

4. The "out of service" credit allowance covering the "out of service" period in cases reported by the subscriber or detected by the company, from the twenty-sixth to and including the last day of the month, cannot be determined in time to be included on the following month's bills and shall appear on the first bill rendered the subscriber thereafter.

5. Nothing contained in these rules shall be deemed to supersede or abrogate any rules and regulations pertaining to telephone service and rates heretofore issued by the California Railroad Commission, and the company is free under these rules to make adjustments as may seem just and reasonable in each case for interruptions of service of duration less than twenty-four (24) hours and under conditions not covered in these rules.

The foregoing "Rules," duly signed by the president of the company, shall be printed and distributed by the company with the next month's bill to all of its subscribers, and the company shall further publish these rules in the Los Angeles daily press and shall furnish a copy of the rules to each new subscriber.

Monthly reports shall be made by the company to this Commission of the amount of credits made for each preceding month. Credit allowances made under these rules shall not be charged to operating expenses and a separate subaccount shall be established by the company under the prescribed classification of accounts.

(b) Delayed installations and other held orders:

The company shall make every effort to bring to normal proportions, at the earliest possible moment, the abnormally large number of delayed orders held for installation and all other held orders and shall, to this end, carry out and complete the program heretofore set out in the foregoing opinion, and it shall be understood that the dates of completion for the work in the various district areas shall be considered as the measure of the maximum period for the completion of such work, and, further, that normal conditions shall be attained for the whole of the Los Angeles primary rate area not later than November 15 of this year, and, further, that normal conditions shall not be deemed to exist unless the total number of held orders within the entire Los Angeles primary rate area is 4000 or less. It shall further be understood that, unless normal service conditions, as defined above, shall be brought about within the time and in the manner specified in this order, it shall be deemed established that the company is either unwilling or unable to render adequate and normal telephone service and the Commission will promptly proceed, on its own initiative, with a reconsideration of the rates fixed in this decision.

The company shall file with the Commission, in such form as will be prescribed, monthly reports showing compliance with this order and progress of work.

(c) Service in general:

It is further ordered, that, for the purpose of supervision, and in order to have on the ground the responsible head of the controlling organization, the president of the Pacific Telephone and Telegraph Company, George E. MacFarland, shall go to Los Angeles and take personal charge of the matters dealt with in this opinion and order and shall remain in such charge until further order of the Commission.

B. In the matter of Los Angeles primary rate area.

It is hereby ordered, that the boundary of the Los Angeles primary rate area, as heretofore outlined in this proceeding, shall be modified as follows:

Beginning at a point where the present primary rate area boundary leaves the Los Angeles city boundary in the vicinity of Forest Lawn Cemetery south of Tropic, the revised boundary line shall follow the Los Angeles city boundary in a westerly and north-westerly direction to Los Feliz boulevard, thence along said boulevard in a westerly and southerly direction to the Los Angeles River; thence in a southerly and easterly direction along the east bank of said Los Angeles River to a connection with the present primary rate area boundary.

C. In the matter of the application of South Pasadena.

It is hereby ordered,

(a) That the company shall refund to its South Pasadena subscribers, for the first half of January, 1922, the difference between the rates collected for that period and the rates that would have been collected for the same period if the rates effective prior to January 1, 1922, had remained in full force and effect.

(b) That the company shall file with the Commission within fifteen (15) days of the date of this order, and make effective not later than April 1, 1922, schedules of rates to apply uniformly within the municipal limits of the city of South Pasadena, establishing the following classes of services; and provided that subscribers and applicants for service shall be given the choice and option of either one of two schedules of rates and shall be entitled to the service for which the particular rate schedule selected shall provide. The schedules of rates herein provided for and the service to which subscribers and applicants for service shall be entitled thereunder, shall be as follows:

Schedule No. 1—Unlimited Local Service Within City of South Pasadena.

Class of service	Rates per month	
	Wall set	Desk set
Business—		
1-party (individual) line.....	\$4 00	\$4 25
2-party line.....	3 50	3 75
Residence—		
1-party (individual) line.....	2 75	3 00
2-party line.....	2 25	2 50
4-party line.....	2 00	2 25

Subscribers electing to take service under Schedule No. 1 above shall be entitled to unlimited service with all other subscribers located within

the city of South Pasadena, inclusive of those electing to take service under Schedule No. 2 hereinafter appearing. For all calls to and from all stations other than those located within the city of South Pasadena, subscribers electing to take service under Schedule No. 1 shall pay the authorized toll rates applicable thereto, as hereinafter provided.

Schedule No. 2—Unlimited Los Angeles Exchange Service.

Class of service	Rates per month	
	Wall set	Desk set
Business—		
1-party (Individual) line.....	\$10 50	\$10 75
2-party line.....	8 00	8 25
Residence—		
1-party (Individual) line.....	5 25	5 50
2-party line.....	4 00	4 25
4-party line.....	3 25	3 50

Subscribers electing to take service under Schedule No. 2 above shall be entitled to unlimited service with all other subscribers located within the city of South Pasadena, inclusive of those electing to take service under Schedule No. 1 above and with subscribers of the Los Angeles exchange. For all calls to and from all stations other than those located within the city of South Pasadena and those served directly from the Los Angeles exchange, subscribers electing to take service under Schedule No. 2 shall pay the authorized toll rates applicable thereto as hereinafter provided.

Long Distance Telephone Toll and Telegraph Rates.

Except that subscribers receiving service under Schedule No. 2 above shall be entitled to unlimited Los Angeles service without the payment of toll charges, the rates for long distance telephone toll and telegraph service for subscribers located within the city of South Pasadena shall be computed as South Pasadena rates in accordance with the authorized standard toll and telegraph schedules of Southern California Telephone Company, the Pacific Telephone and Telegraph Company and United States Long Distance Telephone and Telegraph Company.

For the purpose of establishing the service provided for in Schedule No. 1 above, the company shall at once proceed with the construction and installation of such plant and equipment, if any, in addition to that now available, as may be necessary to render such service.

It is further ordered, that in all matters other than those dealt with in this order, the order of the Commission herein made on the fourteenth day of December, 1921, shall be and remain in full force and effect.

The Commission reserves the right to make such further orders in this proceeding relating to service and rates as may appear just and reasonable.

The foregoing opinion and order is hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourth day of March, 1922.

DECISION No. 10145.

IN THE MATTER OF THE APPLICATION OF BALDWIN AND HOWELL
FOR PERMISSION TO LEASE THE SAN MATEO PARK WATER
SYSTEM.

Application No. 7139.

Decided March 6, 1922.

J. E. McCurdy, for Applicant.

Chas. N. Kirkbride, City Attorney, for City of San Mateo.

Barlow Ferguson, for certain consumers.

BY THE COMMISSION.

OPINION.

Public hearings were held by Examiner Westover at San Francisco, upon the above application to lease to Robert Fulton, for a three-year term, the water system owned and operated by applicant, a corporation, for supplying domestic water to residents of San Mateo Park in San Mateo County. Mr. Fulton joins in the application.

The form of lease, approval of which is sought, provides that the lessee will at his own cost maintain the system in good repair and running order, but shall not be required to replace any pipes or laterals, due to rust or decay, but he is to supply to consumers all water necessary or proper for their use, and protect and indemnify the lessor company against all obligations growing out of the furnishing of water or the operation and conduct of the system and plant.

During the hearings, a number of consumers testified to inadequate service during the summer season, which it appeared from the testimony, was due largely to inadequacy of mains, and that certain improvements in the system should be installed before the summer season. The lessor having expressed a willingness to make such improvements in the system as might be necessary to furnish adequate service, an adjournment was taken to enable it to procure engineering advice as to the improvements needed.

The company subsequently submitted a report made to it by John M. Punnett, consulting engineer, recommending the raising of two tanks

25 feet; a service meter connecting with the Spring Valley Water Company's main permitting 20,000 gallons per hour to be obtained from that company; the installation of a booster pump; and the replacing and enlarging of certain pipes and mains. This report has now been studied and checked by the Commission's engineers, who recommend that the lease be authorized, subject to the completion of the work recommended by Mr. Punnett.

It appears that Mr. Fulton has been actively engaged in the operation of the system as an employee of V. O. Davis, a former lessee, and, after the improvements referred to have been installed, will be able to operate the system to better advantage than has recently been done.

ORDER.

Public hearings having been held upon the above entitled application, the matter being now submitted and ready for decision;

It is hereby ordered, that Baldwin and Howell, a corporation, be and it is hereby authorized to hereafter execute lease to Robert Fulton, transferring its water plant and system used for the purpose of serving water in and about San Mateo Park. Said lease may be in the form of lease, copy of which is attached to the application, except that the Commission will not approve releasing the lessor from its obligation to render service of a character satisfactory to the Commission.

The authority herein contained is granted upon the following conditions:

(1) This authority shall apply only to such lease as may be made within ninety (90) days from date hereof.

(2) Within ten (10) days after such lease shall have been executed and delivered, the lessor shall file with the Railroad Commission a verified copy of such lease hereafter executed.

(3) Nothing herein contained shall be construed as a finding of the cost or value of the property described in the lease, or of the reasonable rental value thereof.

(4) Within ninety (90) days after the date hereof, lessor shall install the improvements described in the seven items under the heading "Conclusion" on page 7 of the report to lessor, by John M. Punnett, under date of December 10, 1921.

(5) Nothing contained herein or in said lease shall be construed as releasing said lessor from obligation to provide necessary capital charges for a water system adequate to supply service to the residents of San Mateo Park and vicinity of a character satisfactory to the Railroad Commission; but said lessor may provide, by lease or otherwise, for the maintenance and operation of such system.

Dated at San Francisco, California, this sixth day of March, 1922.

DECISION No. 10146.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, GRANTING IT A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY IT OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT UNDER THE FRANCHISE GRANTED IT BY THE BOARD OF TRUSTEES OF THE CITY OF VACAVILLE BY ORDINANCE NO. 217, ON THE FIRST DAY OF NOVEMBER, 1921.

Application No. 7509.

Decided March 6, 1922.

Bert F. Rabinowitz, of Pillsbury, Madison and Sutro, for Applicant.

BENEDICT, Commissioner.

OPINION.

In this proceeding, The Pacific Telephone and Telegraph Company is seeking an order of the Railroad Commission declaring that the public convenience and necessity require the exercise by it of the rights and privileges conferred upon it under the franchise granted it by the board of trustees of the city of Vacaville by Ordinance No. 217, on the first day of November, 1921, entitled "An ordinance, granting to The Pacific Telephone and Telegraph Company, its successors and assigns, the right to place, erect and maintain poles, wires and other appliances and conductors and to lay underground conductors for wires for the transmission of electricity for telephone and telegraph purposes, in, upon and under the streets, alleys, avenues, thoroughfares and public highways, in the city of Vacaville, State of California, and to exercise the privilege of operating telephone and telegraph instruments and of doing a telephone and telegraph business within the said city of Vacaville."

A public hearing was held on this application in San Francisco, on February 9, 1922.

The ordinance herein referred to, a copy of which is attached to this application as Exhibit B, grants a renewal of a right already in existence for a term of twenty-five (25) years from and after the date of the passage of the ordinance granting the franchise. It provides, among other things, for the payment by the grantee, its successors and assigns, of two per cent (2%) of the gross annual receipts arising out of its use; for the use by the city of certain specified facilities for police and fire alarm purposes, such use to be without charge by the grantee to the city; and contains the usual provisions with reference to the public powers of the city, having to do with the placing of poles, conduits, etc.

The application sets forth that the consideration given for the grant of the franchise is the sum of \$100. Applicant has stated that the consideration covers the entire cost of the franchise, except that the franchise itself provides for the payment of two per cent (2%) of the gross receipts as hereinabove set forth.

Applicant further states that there are no other public utilities operating in said city with which it is likely to compete.

The following order is suggested:

ORDER.

The Pacific Telephone and Telegraph Company having applied to the Railroad Commission for a certificate of public convenience and necessity authorizing it to exercise the rights and privileges granted it under Ordinance No. 217 by the city of Vacaville on November 1, 1921; a hearing having been held, and it appearing to the Railroad Commission that public convenience and necessity require the construction and operation of the telephone plant and system therein provided for and that there are no other public utilities of like character at present operating within the territory involved in this proceeding.

The Railroad Commission of the State of California hereby declares that public convenience and necessity require and will require the exercise by The Pacific Telephone and Telegraph Company of the rights and privileges conferred upon it by the ordinance hereinbefore described; provided that neither the applicant herein, its successors or assigns, shall ever claim before this Commission or any other public body a value for said franchise for rate fixing or other purposes in excess of \$100, the amount actually paid to the city of Vacaville as consideration for the granting of such franchise, as set forth in the opinion preceding this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this sixth day of March, 1922.

DECISION No. 10147.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, GRANTING IT A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE BY IT OF THE RIGHTS AND PRIVILEGES CONFERRED UPON IT UNDER THE FRANCHISE GRANTED IT BY THE BOARD OF TRUSTEES OF THE CITY OF VISALIA BY ORDINANCE NO. 334, ON THE NINETEENTH DAY OF SEPTEMBER, 1921.

Application No. 7510.

Decided March 6, 1922.

Bert F. Rabinowitz, of Pillsbury, Madison and Sutro, for Applicant.

BENEDIOT, Commissioner.

OPINION.

In this proceeding, The Pacific Telephone and Telegraph Company is seeking an order of the Railroad Commission declaring that the public convenience and necessity require the exercise by it of the rights and privileges conferred upon it under the franchise granted it by the board of trustees of the city of Visalia by Ordinance No. 334, on the nineteenth day of September, 1921, entitled "An ordinance, granting to The Pacific Telephone and Telegraph Company, its successors and assigns, the right to do a general telephone and telegraph business within the city of Visalia, county of Tulare, State of California, and the right to place, erect, lay, maintain and operate in, upon and under the streets, alleys, avenues, thoroughfares and public highways, in said city of Visalia, poles, wires, cables and other appliances and conductors for the transmission of electricity for telephone and telegraph purposes."

A public hearing was held on this application in San Francisco, on February 9, 1922.

The ordinance herein referred to, a copy of which is attached to this application as Exhibit B, grants a renewal of a right already in existence for a term of twenty-five (25) years from and after the date of the passage of the ordinance granting the franchise. It provides, among other things, for the payment by the grantee, its successors and assigns, of two per cent (2%) of the gross annual receipts arising out of its use; for the use by the city of certain specified facilities for police and fire alarm purposes, such use to be without charge by the grantee to the city; and contains the usual provisions with reference to the police powers of the city, having to do with the placing of poles, conduits, etc.

The application sets forth that the consideration given for the grant of the franchise is the sum of \$222. Applicant has stated that the

consideration covers the entire cost of the franchise, except that the franchise itself provides for the payment of two per cent (2%) of the gross receipts as hereinabove set forth.

Applicant further states that there are no other public utilities operating in said city with which it is likely to compete.

The following order is suggested:

ORDER.

The Pacific Telephone and Telegraph Company having applied to the Railroad Commission for a certificate of public convenience and necessity authorizing it to exercise the rights and privileges granted it under Ordinance No. 334 by the city of Visalia on September 19, 1921; a hearing having been held, and it appearing to the Railroad Commission that public convenience and necessity require the construction and operation of the telephone plant and system therein provided for and that there are no other public utilities of like character at present operating within the territory involved in this proceeding,

The Railroad Commission of the State of California hereby declares that public convenience and necessity require and will require the exercise by The Pacific Telephone and Telegraph Company of the rights and privileges conferred upon it by the ordinance hereinbefore described; provided that neither the applicant herein, its successors or assigns, shall ever claim before this Commission or any other public body a value for said franchise for rate fixing or other purposes in excess of \$222, the amount actually paid to the city of Visalia as consideration for the granting of such franchise, as set forth in the opinion preceding this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this sixth day of March, 1922.

DECISION No. 10153.

ALBERS BROS. MILLING COMPANY, COMPLAINANT.

vs.

SOUTHERN PACIFIC COMPANY, DEFENDANT.

Case No. 1463.

Decided March 6, 1922.

Sullivan, Sullivan and Roche, by George D. Squires, for Albers Bros. Milling Company.

Elmer Westlake and J. T. Saunders, for Southern Pacific Company.

B. Levy, for The Atchison, Topeka and Santa Fe Railway Company.

E. W. Hollingsworth, R. T. Boyd, and Bishop and Bahler, for Traffic Bureau Oakland Chamber of Commerce.

C. L. Neumiller, for Sperry Flour Company.

LOVELAND, Commissioner.

SUPPLEMENTAL OPINION.

Albers Bros. Milling Company, a corporation, which operates a mill at Oakland, California, alleges that the rates charged for transportation of grain and grain products by the defendant Southern Pacific Company to and from Oakland, from points of origin and to destinations within the State of California are, in so far as they exceed rates on like traffic to and from South Vallejo, California, unjust, unreasonable, unjustly discriminatory and unduly prejudicial and, therefore, contrary to section 21 of Article XII of the constitution of the State of California and the provisions of the Public Utilities Act, particularly section 19 thereof. The complaint further alleges that by reason of having been compelled to pay said unjust, unreasonable, unjustly discriminatory and unduly prejudicial rates, complainant has been damaged and seeks reparation therefor.

Hearings were held on the original complaint and in the Commission's Decision No. 9034, rendered June 1, 1921, it was found that discrimination existed in the rates on grain and grain products applying at Oakland, as compared with rates on the same commodities applying at South Vallejo, and ordered said discrimination removed.

In compliance with the Commission's order referred to above, the defendant submitted a rate adjustment which in its opinion would eliminate the discrimination existing in the current rates, but the proffered adjustment contained many increases in the rates to both Oakland and South Vallejo.

In the proposed adjustment between points in the Sacramento Valley, and Oakland and South Vallejo, the carrier applied the same rates to South Vallejo and Port Costa on account of the difference in the distance being less than three miles, and sought to establish a differential at Oakland of 2 cents higher than South Vallejo-Port Costa rates, Port Costa to be the basing point.

From the San Joaquin Valley it was proposed to adjust by increasing the rates to and from South Vallejo to a basis of 2 cents per 100 pounds over the Port Costa rates, where less differential is maintained at the present time. The carrier gave as its justification for so doing that it performs 35.5 miles greater haul, including ferry service and branch line, to South Vallejo than to Port Costa, and approximately 22 miles less haul to Oakland than to South Vallejo. Attention was called to the proportional rate of 2 cents, published in Item No. 80,

page 80, Southern Pacific Tariff No. 793-B, C. R. C. No. 2487, applying from Port Costa to South Vallejo on shipments originating beyond Port Costa and, therefore, that the differential between the South Vallejo and Port Costa rates could not exceed the proportional rate of 2 cents. The adjustment also included San Joaquin Valley points to Oakland, a differential of $1\frac{1}{2}$ cents per 100 pounds over Port Costa, reducing the Oakland rates, where the differential exceeded $1\frac{1}{2}$ cents per 100 pounds, the distance from San Joaquin Valley points to Oakland being 14.8 miles greater than to Port Costa. From points south of Bakersfield, the adjustment proposed to increase South Vallejo rates to a basis of 2 cents over Port Costa, the same as San Joaquin Valley rates, and to reduce Oakland rates to a basis of 1 cent per 100 pounds over Port Costa, grading down until Oakland, Port Costa and South Vallejo are placed on a parity at Sepulveda, California, and beyond, a distance of 443 miles south of Port Costa.

On the Coast Division the adjustment proposed for points south of San Jose to Santa Margarita, inclusive, using Oakland as the basing point, makes Port Costa 2 cents, $1\frac{1}{2}$ cents and 1 cent per 100 pounds over Oakland, the differential decreasing as the distance increases, and makes South Vallejo 2 cents per 100 pounds over Port Costa, justifying such on account of the greater haul of 26.2 miles to Port Costa over Oakland, and 35.5 miles beyond Port Costa to South Vallejo. Such adjustment would result in rates to South Vallejo being 3 to 4 cents per 100 pounds more than Oakland and would result in no uniform relationship either as to distance or anything else.

The Commission gave very careful consideration to the carrier's proposed adjustment and held conferences with the interested parties, but was unable through such efforts to bring about an informal agreement, whereupon the case was reopened for the purpose of permitting the shippers to present objections to the proposed adjustment and to permit the carrier to submit full and complete justification of the rates they offered in satisfaction of the complaint.

A hearing was held on December 7, 1921, the matter was submitted on briefs to be filed within 20 days; the protestant filed brief on January 9, 1922, and defendant has not filed a brief.

An analysis of the rates in effect at the time the complaint in this proceeding was filed showed a great variance in relationship of the rates to Oakland and South Vallejo in the various territories, and no uniformity of differentials whatsoever even in the same territory. Obviously, this condition was caused by the rates having been adjusted from time to time as competitive and other forces required.

From the Sacramento Valley generally, the rates to South Vallejo and Port Costa are the same, these two points being within three miles of the same distance to and from Sacramento Valley points. However, to Oakland, differentials vary from $1\frac{1}{2}$ to $2\frac{1}{2}$ cents. The differential is not constant, nor does it decrease with distance.

As illustrative of the above condition the following tables are compiled from Southern Pacific Company's Freight Tariff No. 793-B, C. R. C. No. 2487, showing rates in effect December 7, 1921, applying on grain and grain products:

SACRAMENTO VALLEY.

Between and	Port Costa, South Vallejo		Oakland	
	Miles from Port Costa	Rate	Rate	Differential
Copeland -----	156.3	$20\frac{1}{2}$	$22\frac{1}{2}$	2
Rawson -----	162.4	$20\frac{1}{2}$	23	$2\frac{1}{2}$
Draper -----	183.3	$22\frac{1}{2}$	$24\frac{1}{2}$	2
Anderson -----	190.6	$22\frac{1}{2}$	25	$2\frac{1}{2}$
Cuargo -----	209.6	24	$25\frac{1}{2}$	$1\frac{1}{2}$
Pitt -----	221.8	24	$26\frac{1}{2}$	$2\frac{1}{2}$
Shasta Springs -----	268.9	$25\frac{1}{2}$	$27\frac{1}{2}$	2
Cole -----	346.3	$31\frac{1}{2}$	33	$1\frac{1}{2}$

By inspection of the tariff it was found that within a distance of 100 miles, Copeland to Conant, inclusive, there are 41 rates with differentials varying from $1\frac{1}{2}$ cents to $2\frac{1}{2}$ cents; progressing with distances beginning at Copeland, there are seven points where Oakland is 2 cents higher than South Vallejo-Port Costa; five points $2\frac{1}{2}$ cents higher; then two points 2 cents, then nine points $2\frac{1}{2}$ cents, four points $1\frac{1}{2}$ cents and fourteen points $2\frac{1}{2}$ cents higher.

Going a farther distance, from Oakland to Shasta Springs, 268.9 miles, differential 2 cents, while at Cole, 346.3 miles, differential $1\frac{1}{2}$ cents. Here we have a lower differential for greater distances than for less distances.

Now, going to the San Joaquin Valley, it is found that rates from points in that territory to South Vallejo-Port Costa are generally the same, but the differentials between South Vallejo-Port Costa on the one hand and Oakland on the other, vary from one-half cent to $2\frac{1}{2}$ cents. As an illustration:

Rates from Southern Pacific Company Freight Tariff No. 793-B,
C. R. C. No. 2487:

Rates in Cents Per 100 Pounds.

Between and	Port Costa, South Vallejo		Oakland	
	Miles from Port Costa	Rate	Rate	Differential
Lyeth	53.8	11½	12	½
Yarmouth	56.8	11½	12½	1
Vernalls	61.5	12	14	2
Westley	69.3	12	14½	2½
Crow's Landing	82.1	14½	15½	1
Stomar	84.9	15	15½	1½
Gustine	92.4	15	17½	2½
Ingomar	98.2	15½	17½	2
Volta	104.5	16½	18	1½
Trent	107.3	16½	19	2½
Oxalis	128.7	19½	21½	2
Silaxo	130.5	20½	21½	1
Tranquillity	156.1	22½	23	½
Jamesan	153.4	20½	21½	1
Armona	198.1	22½	23	½
Lemoore	202.8	22½	24	1½
Coalinga	237.3	24½	27	2½

In the above table it will be noted that the differential fluctuates fifteen times in less than 100 miles, while the rates at South Vallejo-Port Costa remain the same. It will also be seen that at Coalinga, a greater distance, a higher differential prevails for 237.3 miles than at many of the previously named points where the distance is less, whereas fundamentally the reverse should be true. On the Coast Division a great variance in differentials exists between Oakland and Port Costa on the one hand and between Oakland and South Vallejo on the other. As an illustration, using Oakland as the basing point, we have compiled the following table from Southern Pacific Company's Tariff No. 793-B, C. R. C. No. 2487:

Between and	Oakland		Port Costa		South Vallejo	
	Miles	Rate	Rate	Differential	Rate	Differential overOakland
Campbell	46.3	13	15	2	17	4
Santa Cruz	76.4	20½	22	1½	24	3½
Gilroy	71.8	15	16½	1½	18	3
Plantel	75	15½	17½	2	19½	4
Watsonville	92.8	19½	20½	1	22½	3
Aptos	84.2	20	21½	1½	24	4
Salinas	169.3	19½	22½	3	24½	5
Gabilan	122.1	24	25	1	27	3
Santa Margarita	226.6	24	25	1	27	3
Cuesta	230	24½	29	4½	29½	5
Surf	293.8	29	32½	3½	33	4
Baroda	294.9	30	34	4	35	5
LaSalle	299.5	32	35½	3½	36½	4½

It will be seen from the above illustrations that a uniform adjustment is not only desirable but necessary.

All other questions, excepting that of the removal of discrimination, having been disposed of in the previous decision and order in this case, this opinion and order will be directed only toward the elimination of discrimination.

The evidence showed that in the establishment of grain rates, South Vallejo is given practically the same adjustment as Port Costa on tonnage moving to and from competitive river and bay points served by water carriers. Great quantities of grain are sent to South Vallejo and Port Costa by river and bay boats and it is because of this competition that the defendant in this proceeding found it necessary to carry South Vallejo and Port Costa on a rate parity.

The complainant's contention that the South Vallejo rates are lower than the Oakland rates, regardless of the distance from the grain-growing districts in the San Joaquin and Sacramento Valleys, created discrimination, was met by carrier's contention, as indicated above, that it has been forced to meet water competition at South Vallejo as well as at Port Costa and has, therefore, placed the ports of South Vallejo and Port Costa on the same basis from the Sacramento and San Joaquin valleys, the two ports being on opposite sides of Carquinez Straits and requiring no greater service by water carrier to serve one point than the other. (Trans., page 177-8.)

"Q: (Saunders, witness.) Why have you taken Port Costa, Mr. Saunders in justifying your rates to South Vallejo on the one hand and Oakland on the other? Why did you start with that as a basing point?

"A: Because the rates from both the Sacramento and San Joaquin Valleys have been made with relation to what it was necessary to make in order to compete with the river lines. Now, the river lines operating out of the Sacramento Valley and the San Joaquin River territory, and in the interior of the San Joaquin Valley, years ago made some rates, the same rates to South Vallejo and Port Costa. From a water transportation standpoint, there is practically no difference in the service. That is the reason why we use Port Costa as a basis and our distance from the Sacramento Valley is substantially the same as South Vallejo, at Port Costa is practically the same as at South Vallejo."

From the Sacramento Valley territory via Suisun, South Vallejo is only 2.7 miles greater distance than to Port Costa, while Oakland is 26.2 miles greater than Port Costa. From the San Joaquin Valley territory, Oakland is 14.8 miles farther distant than Port Costa, using short-line mileage to Oakland via Livermore. From the Salinas Valley

(Coast Division), however, the condition is dissimilar, both as to distance and competition, the distance to Port Costa being 26.2 miles greater than to Oakland, and to South Vallejo being 62.7 miles greater than to Oakland.

Taking into consideration all of the compelling forces referred to above, I believe that reasonable and just differentials from these three large grain shipping valleys to Oakland and South Vallejo-Port Costa would be as follows:

Using Port Costa as the key point, I find that the rates from the Sacramento Valley to South Vallejo and Port Costa should be the same; for distances not exceeding 200 miles from Port Costa the Oakland rate should be $1\frac{1}{2}$ cents higher than South Vallejo-Port Costa rate; for distances over 200 miles and not over 300 miles from Port Costa the rate to Oakland should be 1 cent higher than the South Vallejo-Port Costa rates.

Using Port Costa as the key point, I find that the rates from the San Joaquin Valley to South Vallejo and Port Costa should be the same; for distances not exceeding 200 miles from Port Costa the Oakland rate should be 1 cent higher than the South Vallejo-Port Costa rate; for distances over 200 miles and not over 300 miles from Port Costa the Oakland rate should be one-half cent higher than the South Vallejo-Port Costa rates.

Using Oakland as the key point, I find that the rates from the Salinas Valley (Coast Division), for distances not over 200 miles from Oakland, the Port Costa rate should be $1\frac{1}{2}$ cents more than to Oakland, and the South Vallejo rate 3 cents more than Oakland; to and from points over 200 miles and not over 300 miles from Oakland, the Port Costa rate should be 1 cent higher than Oakland and the South Vallejo rate should be 2 cents higher than Oakland.

To and from all points in the Sacramento and San Joaquin valleys over 300 miles from Port Costa, and to and from all points in the Salinas Valley over 300 miles from Oakland, the rates should be the same to Oakland, South Vallejo and Port Costa.

The Southern Pacific Company will be expected to submit a tentative adjustment of the grain rates in the territory immediately adjacent to San Francisco Bay extending from Oakland, through Port Costa and Benicia to Sacramento, south through Stockton, Tracy, Livermore and Niles to San Jose, thence north through Santa Clara and Western Division to Oakland, the above territory to include the line from Tracy to Port Costa and from Radum to Avon, also to include the Coast Division between San Francisco-San Jose and the entire Calistoga, Walnut Grove and Santa Rosa branches, such adjustment

to be in harmony with the rates prescribed in the order herein. In preparing the adjustment in this territory the carrier will not eliminate water-compelled rates, but will give consideration only to relationship of the rates as between South Vallejo and Oakland.

The record in this proceeding is not sufficient upon which the Commission can reach a conclusion or establish definite rates in the territory described above this because of the keen water competitive conditions prevailing.

ORDER.

It appearing that by Decision No. 9034, dated June 1, 1921, this Commission found that discrimination existed in the rates on grain and grain products applying at Oakland, as compared with rates on the same commodities applying at South Vallejo-Port Costa and ordered the discrimination removed.

It further appearing that the rate adjustment submitted by defendant in compliance with the above entitled opinion and order having been protested by the interested shippers, a rehearing having been held, full investigation of the matters and things involved having been had and the Commission having, on the date hereof, made its findings of fact and conclusions thereon,

It is hereby ordered, that the defendant in this proceeding will, within thirty days from the date of this order, establish upon one day's notice to the public and to this Commission, rates applying on grain and grain products to and from South Vallejo-Port Costa and Oakland, as follows:

SACRAMENTO VALLEY.

All points on the lines of defendant north of Davis, north and east of Sacramento and the Rumsey and Placerville branches.

Port Costa (the basing point):

Present rates and short line mileages to govern.

South Vallejo and Port Costa:

Rates to be the same at all points.

Oakland:

One and one-half cents per 100 pounds higher than South Vallejo-Port Costa for distances not over 200 miles from Port Costa.

One cent per 100 pounds higher than South Vallejo-Port Costa for distances over 200 miles and not over 300 miles from Port Costa.

For distances over 300 miles from Port Costa, the South Vallejo-Port Costa and Oakland rates to be the same.

SAN JOAQUIN VALLEY.

All points on the lines of defendant south and east of Galt, Lodi, Stockton, Lathrop and Tracy, main line and branches.

Port Costa (the basing point):

Present rates and short line mileages to govern.

South Vallejo and Port Costa:

Rates to be the same at all points.

Oakland:

One cent per 100 pounds higher than South Vallejo-Port Costa for distances not over 200 miles from Port Costa.

One-half cent per 100 pounds higher than South Vallejo-Port Costa for distances over 200 miles and not over 300 miles from Port Costa.

For distances over 300 miles from Port Costa, the South Vallejo-Port Costa and Oakland rates to be the same.

SALINAS VALLEY POINTS.

All points on the lines of defendant south of San Jose, main line and branches.

Oakland (the basing point) :

Present rates and short line mileages to govern.

Port Costa :

One and one-half cents per 100 pounds higher than Oakland for distances not over 200 miles from Oakland.

One cent per 100 pounds higher than Oakland for distances over 200 miles and not over 300 miles from Oakland.

South Vallejo :

Three cents per 100 pounds higher than Oakland for distances not over 200 miles from Oakland.

Two cents per 100 pounds higher than Oakland for distances over 200 miles and not over 300 miles from Oakland.

For distances over 300 miles from Oakland the South Vallejo-Port Costa and Oakland rates shall be the same.

It is further ordered, that the above prescribed adjustment of rates shall not apply to the territory immediately adjacent to San Francisco Bay, extending from Oakland, through Port Costa and Benicia to Sacramento, thence south through Galt, Lodi, Stockton, Lathrop, Tracy, Livermore, Niles to San Jose, thence through Santa Clara and the Western Division Line to Oakland; also the territory from Tracy via Antioch to Port Costa, from Radum to Avon, the Calistoga and Santa Rosa branches and the territory from San Jose to San Francisco via the Coast Division. As to this territory defendant will present informal application necessary to bring about proper rate adjustment.

It is hereby further ordered, that the part of the application dealing with the reasonableness of the rates *per se* and the claim for reparation be denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this sixth day of March, 1922.

DECISION No. 10155.

IN THE MATTER OF THE APPLICATION OF ONTARIO POWER COMPANY
FOR AN ORDER AUTHORIZING THE ISSUE OF SEVEN PER CENT
PREFERRED STOCK.

Application No. 7594.

Decided March 6, 1922.

Glenn D. Smith, for Applicant.

BY THE COMMISSION.

OPINION.

Ontario Power Company asks permission to issue and sell at par 350 shares (\$35,000 par value) of its 7 per cent preferred stock for the

purpose of financing construction expenditures from October 1, 1921, to January 31, 1922.

A hearing was had on this application before Examiner Williams on February 28.

Ontario Power Company has an authorized stock issue of \$1,500,000 divided into \$900,000 of common and \$600,000 of 7 per cent preferred. Of the common stock, \$380,000 and of the preferred \$191,270 par value was outstanding on December 31, 1921. Applicant's funded debt as of the same date is reported at \$406,000, consisting of \$274,000 of first mortgage 5 per cent bonds, \$72,000 of 7 per cent serial gold notes and \$60,000 of 7 per cent trust notes. Its notes payable were reported at \$20,000 and its accounts payable at \$38,654.25.

For 1921, applicant reports gross operating revenues of \$266,371.79 and operating expenses including taxes and charges for depreciation amounting to \$184,761.02, leaving net operating revenues of \$81,610.77. After taking into account applicant's nonoperating income and deducting its interest charges, applicant had available for the distribution of dividends and other surplus deductions the sum of \$62,319.65. During 1921, it declared dividends amounting to \$41,848.06. Of this amount, \$11,548.06 was paid to the holders of preferred stock and the remainder to the holders of common stock.

Applicant reports that from October 1, 1921, to January 31, 1922, it expended for additions and betterments the sum of \$35,122.87. This sum was expended for the following purposes:

Addition to Substation No. 3.....	\$2,888 45
Substation equipment.....	3,312 36
Miscellaneous equipment.....	1,590 50
Transformers	3,332 00
Meters	2,467 50
Line material and supplies purchased.....	3,503 10
Pole line construction.....	18,028 87
Total	\$35,122 87

Further detail of applicant's construction expenditures is set forth in exhibits filed in this proceeding.

Glenn D. Smith, applicant's general manager, is of the opinion that no difficulty will be encountered in selling \$35,000 of stock at par.

ORDER.

Ontario Power Company having applied to the Railroad Commission for permission to issue and sell \$35,000 of its 7 per cent cumulative preferred stock, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that this application should be granted;

It is hereby ordered, that Ontario Power Company be and it is hereby authorized to issue and sell, for cash, at not less than par, on or before December 31, 1922, 350 shares (\$35,000 par value) of its 7 per cent cumulative preferred stock and use the proceeds to reimburse its treasury in part on account of earnings expended for the construction of additions and betterments from October 1, 1921, to January 31, 1922, and to pay indebtedness incurred for the purpose of securing money to pay for the construction of additions and betterments from October 1, 1921, to January 31, 1922, provided:

That applicant will keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

Dated at San Francisco, California, this sixth day of March, 1922.

DECISION No. 10156.

CASA VERDUGO IMPROVEMENT ASSOCIATION

vs.

PACIFIC ELECTRIC RAILWAY COMPANY, A CORPORATION.

Case No. 1541.

Decided March 6, 1922.

CROSSINGS—RAILROADS—JURISDICTION.—It is held that where streets have not been legally constituted public highways the Railroad Commission has no jurisdiction over grade crossings.

H. H. Harris, for Complainant.

Frank Karr, for Defendant.

LOVELAND, Commissioner.

OPINION.

The complaint of Casa Verdugo Improvement Association alleges that the Pacific Electric Railway Company maintains a private right of way for its trains on Brand boulevard in the district immediately north of the city of Glendale, and that the tracks of said company cross Stocker and Dryden streets at their intersections with Brand boulevard; that the tracks of the Pacific Electric Railway Company are elevated to such an extent above the grade of Stocker and Dryden streets that it is impossible for vehicular traffic to cross said tracks at the intersections of Stocker and Dryden streets and Brand boulevard. Complainant asks that the Commission make an order requiring the Pacific Electric Railway Company to lower its tracks at said intersections to a level with the east side of Brand boulevard.

Under section 43 (b) of the Public Utilities Act the Railroad Commission has exclusive power to determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation, maintenance, use and protection of each crossing of a public road or highway by a railroad or street railroad, and of a street by a railroad. It appears from the evidence that Stocker and Dryden streets are not legally constituted public highways across the right of way and tracks of the Pacific Electric Railway. The county authorities were not parties to the proceeding, and it does not appear that any steps are being taken to establish public streets, by condemnation or otherwise, at these points. The Railroad Commission has no power to order the opening of new streets, and since no streets, and hence no crossings, have been shown to exist here the Commission is without jurisdiction to grant the relief asked.

I recommend the following form of order:

ORDER.

For the reasons above set forth, the complaint of Casa Verdugo Improvement Association is hereby dismissed without prejudice to the filing of another application when the proper facts can be shown.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this sixth day of March, 1922.

DECISION No. 10159.

W. P. FULLER AND COMPANY

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 1684.

Decided March 7, 1922.

RATES, RAILROAD, VALUE NOT CONTROLLING.—It is held that value of products is not the only, nor the controlling element to be taken into consideration in the construction of rates.

RATES, REPARATION—FEDERAL CONTROL.—The Commission expresses the view that reparation should not be awarded on readjustments of rates effective during the period when the railroads were operated by the government as a war emergency measure.

D. T. Berry, for Complainant.

J. E. Lyons, for Defendant.

BENEDICT, Commissioner.

OPINION.

The complainant, W. P. Fuller and Company, manufacturers and distributors of paints, oils, etc., with offices in San Francisco, Cali-

fornia, alleges that the rate of 9 cents per 100 pounds collected by Southern Pacific Company, hereinafter referred to as defendant, on shipments consisting of 24 carloads of fuel oil from San Francisco to South San Francisco within the period, September 1, 1920, to July 31, 1921, was unreasonable and discriminatingly high to the extent it exceeded 4 cents. Reparation only is sought. Rates are stated in cents per 100 pounds.

A public hearing having been held and the case submitted on briefs, the matter is now ready for opinion and order.

The only evidence offered by the complainant to substantiate the complaint was an exhibit consisting of copies of invoices for one carload of whiting and one carload of vinegar, which, it is alleged, were of greater value than a similar shipment of fuel oil. The testimony of complainant's witness went to the issue that the transportation charge was greater on fuel oil than the transportation charge for whiting or vinegar moving between the same points (South San Francisco and San Francisco), the two last named commodities being of greater value than fuel oil. No evidence was offered as to the similarity of the service performed on the two commodities nor as to the transportation conditions prevailing and no other statement was made than that the defendant carried a higher valued commodity at a lower rate than it carried commodities of lesser value between the same points.

The foregoing testimony was uncontroverted, but value is not the only nor the controlling element to be taken into consideration in the construction of rates.

A witness for the complainant testified that in his opinion the rates complained of were unreasonable *per se* as compared with rates on other commodities, but he did not elaborate, explain or compare comparable rates and made no complaint of the current rates.

Defendant's witness testified that formerly the rate on all freight between San Francisco and South San Francisco was 50 cents per ton, or 2½ cents per 100 pounds. Shortly after the railroads were taken under federal control the Railroad Administration increased all freight rates by General Order No. 28, effective June 25, 1918. That order brought the 2½-cent rate to 3 cents and by this Commission's Decision No. 7983 the 3-cent rate was brought to 4 cents, effective August 26, 1920. This rate applied on all commodities generally, with a few exceptions—live stock, cement, lime, etc. Shortly after General Order No. 28 became effective that order was amended by Rate Authority No. 96 to provide instead of a flat increase of 25 per cent, petroleum oil would be subjected to a flat increase of 4½ cents applied uniformly to all petroleum oil rates, both state and interstate, throughout the

nation. This was done, the Director General declared, at the instigation and demand of shippers for a continuation of the differential basis which had always been preserved on petroleum and its products and it was found that approximately the same aggregate revenue would accrue to the carriers under the $4\frac{1}{2}$ cent increase as would have accrued under a 25 per cent increase. Naturally, the adjustment, whereby $4\frac{1}{2}$ cents was added to the petroleum oil rates after the petroleum rates had been established under General Order No. 28, brought about both reductions and increases.

The defendant further contended that the rate of $2\frac{1}{2}$ cents, in effect prior to government control of railroads, was unduly low and was a water-compelled rate, made necessary to meet barge competition.

By this Commission's Decision No. 8960, May 12, 1921, South San Francisco was brought within the switching limits of San Francisco and the condition complained of in this proceeding was cured, effective July 11, 1921, when defendant published the rates prescribed and, therefore, the only question before the Commission in this proceeding is the reasonableness of the 9-cent rate in effect between September 1, 1920 (end of guaranty period), and July 11, 1921, and whether or not the same was discriminatory.

Taking into consideration that all of the petroleum rates throughout the state and nation were increased $4\frac{1}{2}$ cents in order to maintain relationships, long existing between the various producing and consuming points, and furthermore, considering the fact that other commodities—live stock, cement, lime, etc., were increased in different ratio and there having been no complaint against the rates on these other excepted commodities between the points in issue, and it being obvious that any general adjustment of rates such as the one referred to would result in increases as well as decreases; for instance, all rates on petroleum oil over $19\frac{1}{2}$ cents in effect prior to General Order No. 28, by applying the $4\frac{1}{2}$ cent increase, would result in lower rates than if the 25 per cent General Order No. 28 horizontal increase had been allowed to remain in effect and, further, in view of the fact that defendant inherited the rate complained of from the United States Railroad Administration, and that the adjustment complained of resulted from the desire of the government to preserve existing relationships, I find that the rate complained of in this proceeding was not unreasonable nor unduly discriminatory at the time it was assessed. It applied to all oil traffic throughout the state. Furthermore, we believe reparation should not be awarded on readjustments of this character effective during a period when the railroads were operated by the government

as a war emergency measure, and no evidence was offered indicating that complainant suffered any damage.

Under all of these circumstances, I believe that reparation should be denied and the complaint dismissed.

I submit the following form of order:

ORDER.

It is hereby ordered, that the complaint in this proceeding should be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventh day of March, 1922.

DECISION No. 10160.

DANIEL SOUR AND C. C. CHRISTENSEN ET AL.

vs.

C. B. SMITH, GRANITE ROCK WATER COMPANY AND MOSS BEACH
REALTY COMPANY.

Case No. 1699.

Decided March 7, 1922.

Hilton and Christensen, by *S. X. Christensen*, for Complainants.
J. J. Bullock, for Defendants.

BY THE COMMISSION.

OPINION.

A public hearing was held at Moss Beach by Examiner Westover upon the above complaint, which, as amended at the hearing, alleges in substance that by Decision No. 9724 upon Application No. 7008, the Commission inadvertently fixed rates for defendants as owners of a water system at El Granada, San Mateo County, which, in reality, belongs to the 31 complainants and other consumers.

The prayer is that the order establishing rates be set aside and the system serving complainants be declared not a public utility.

Complainants offered as evidence of ownership of the water system certain advertising by the subdividers of the townsite to the effect that a pure water supply would be put in "without cost to the purchasers * * * free by the company." The deeds by which lots were conveyed to purchasers were silent as to the furnishing of water or a water system, but provided that a purchaser should not develop water on his lots in excess of the quantity reasonably to be used for irrigation or domestic purposes, but that any excess above such quantity of water

should become the property of the seller who might conduct it from any place where it might be developed on lots so sold.

In fixing the rates established by said Decision No. 9724, the Commission acted under section 2 (*x*) of the Public Utilities Act, which defines a water corporation as every corporation or person owning, controlling, operating or managing any water system for compensation within this state. Complainants did not produce any testimony tending to show that the Commission acted erroneously in fixing said rates, as defendants were controlling, operating and managing the water system in question, and produced deeds purporting to convey title to the system.

The complaint must, therefore, be dismissed.

ORDER.

A public hearing having been held upon the above entitled complaint, the matter being submitted, and now ready for decision;

It is hereby ordered, that said complaint be and it is hereby dismissed.

Dated at San Francisco, California, this seventh day of March, 1922.

DECISION No. 10162.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF FIRST AND REFUNDING MORTGAGE FIVE PER CENT BONDS OF THE PAR VALUE OF ONE HUNDRED NINETY-FIVE THOUSAND DOLLARS AND TEN-YEAR SIX PER CENT NOTES OF THE PAR VALUE OF EIGHT HUNDRED THIRTY-SIX THOUSAND DOLLARS.

Application No. 7604.

Decided March 7, 1922.

Chickering and Gregory, by *Allen L. Chickering*, for Applicant.

MARTIN, Commissioner.

OPINION.

Western States Gas and Electric Company asks permission to issue and sell \$195,000 of its first and refunding mortgage 5 per cent bonds due June 1, 1941, and \$836,000 of 6 per cent notes due February 1, 1927, for the purpose of financing expenditures on capital account. Both the bonds and notes are callable prior to maturity.

By Decision No. 10118, dated February 21, 1922, the Railroad Commission authorized applicant, subject to the conditions of the decision, to issue and sell \$5,000,000 of 6 per cent twenty-five year bonds for the purpose of financing the construction of a new hydro-electric power plant. It is estimated that the cost of the plant will approximately equal the proceeds realized from the sale of the bonds and that none of the proceeds obtained from the sale of the bonds will be available

to pay the cost of additions and betterments to its plants and systems during the period that the hydro-electric plant is being constructed. It is for the purpose of providing itself with funds with which to pay the cost of such additions and betterments and refund indebtedness, that applicant now asks permission to issue first and refunding mortgage bonds and 6 per cent notes.

The mortgage securing the payment of applicant's first and refunding bonds provides in general that the trustee may certify additional bonds only if and when the net earnings of the company for a period of twelve months ending not more than sixty days prior to the date of an application for certification of bonds shall have been equal to at least twice the interest charges on all of the company's bonded indebtedness together with the interest charges on the bonds which the trustee is requested to certify.

The agreement under which applicant has been issuing its 6 per cent notes prohibits the trustee from certifying any of the notes unless the net earnings of the company after making certain deductions specified in the agreement shall for a period of twelve consecutive months ending not more than sixty days prior to the application for certification of the notes, have been equal to at least three times the annual interest charges on all of the notes outstanding, together with the interest charges on the notes which the trustee is asked to certify and on the company's interest bearing floating debt. The agreement further provides that if the proceeds of any of the notes, the authentication of which is sought, are to be used to pay off any underlying bonds, secured indebtedness, floating indebtedness or other obligations of applicant, then such underlying bonds, secured indebtedness, floating indebtedness or other obligations to be so paid shall not be considered as outstanding in the calculations used as a basis for the authentication and delivery of the notes under the agreement.

In view of the restrictions imposed by the first and refunding mortgage and the agreement relating to the issue of notes, it is believed by applicant's officers that unless the notes and bonds covered in this application are certified before the \$5,000,000 of bonds are sold that applicant will be handicapped throughout the remainder of this year in financing the cost of its additions and betterments. It is to avoid such a situation that this application has been filed. If granted, applicant will forthwith ask the trustees under the first and refunding mortgage and under the note agreement to certify or authenticate the \$195,000 of bonds and the \$836,000 of notes.

In the agreement under which the company has issued and proposes to issue its 6 per cent notes, it covenants that it will not mortgage, pledge or otherwise encumber any of its property, real, personal

or mixed, unless and until it shall by mortgage or deed of trust secure the carrying out of the terms of the agreement and the payment of the principal and interest of the notes issued and issuable under the agreement equally and ratably with the bonds, notes or other obligations secured by such mortgage or deed of trust. It, therefore, appears that through the execution of a new mortgage, the 6 per cent notes heretofore issued, and now proposed to be issued, will constitute a direct lien on the company's properties.

Applicant, through the acquisition of the properties of the American River Electric Company, has become liable for the payment of the American River Electric Company bonds. There are now \$207,000 of these bonds outstanding in the hands of the public. They bear interest at the rate of 5 per cent per annum and mature on July 1, 1933, but are callable at 107½ and accrued interest on any interest payment date prior to their maturity. The redemption of these bonds has been made a condition precedent to the release of property from the lien of applicant's first and refunding mortgage, which release is necessary to the financing of the new power plant. To redeem the \$207,000 of American River Electric Company bonds, applicant asks permission to issue \$207,000 of its 6 per cent notes.

Applicant reports that to January 31, 1922, it expended for additions and betterments the sum of \$274,754.82, which has not been obtained from the sale of stock, bonds or notes, the issue of which was authorized by the Railroad Commission. To finance these expenditures, applicant proposes to issue and sell at not less than 91 per cent of their face value and accrued interest \$301,000 of its 6 per cent notes.

Applicant estimates (Exhibit "B") that during the year ending February 1, 1923, it will have to expend for the acquisition of property and the construction of additions and betterments, the sum of \$961,200. Applicant intends to use the proceeds realized from the sale of its notes and bonds to pay the cost of acquiring and constructing properties listed in its Exhibit "B." The use of the proceeds for these purposes will be covered by a supplemental order or orders in this proceeding.

It appears that applicant has entered into no contract or agreement covering the sale of the notes or bonds. The Commission is asked to make an order authorizing the sale of the notes at not less than 91 per cent of their face value and accrued interest and the bonds at not less than 83 per cent of their face value and accrued interest. Applicant, however, does not urge the Commission to determine at this time the minimum price of all the notes and bonds. It does request the Commission to permit it to sell at not less than 91 per cent of their face value and accrued interest \$301,000 of notes netting \$273,910, an amount approximately equal to applicant's construction expenditures up to

January 31, 1922, against which it has issued no stock, bonds or notes under orders of this Commission. Consideration has been given to applicant's request and I have reached the conclusion that the Commission should fix the minimum price of \$297,000 of the notes at 92½ per cent of their face value and accrued interest, netting at least \$274,725.

I herewith submit the following form of order:

ORDER.

Western States Gas and Electric Company having applied to the Railroad Commission for permission to issue \$836,000 of 6 per cent notes and \$195,000 of 5 per cent bonds, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Western States Gas and Electric Company be and it is hereby authorized to issue not exceeding \$836,000 of its 6 per cent notes due February 1, 1927, and not exceeding \$195,000 of its first and refunding mortgage 5 per cent bonds due June 1, 1941.

The authority herein granted is subject to the following conditions:

1. Of the notes herein authorized to be issued, applicant may sell not exceeding \$297,000 at not less than 92½ per cent of their face value and accrued interest and use the proceeds to finance in part the construction expenditures reported in this application,, and through such financing pay current indebtedness or reimburse its treasury.

2. The remainder of the notes and the bonds herein authorized to be issued shall not be sold by applicant, or otherwise disposed of in any manner, except as hereinafter authorized by the Railroad Commission in a supplemental order or orders.

3. Western States Gas and Electric Company shall keep such record of the issue and sale of the notes and bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

4. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee amounts to \$1,015.50.

5. The authority herein granted will apply only to such notes and bonds as may be issued, sold and delivered on or before December 31, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventh day of March, 1922.

DECISION No. 10166

IN THE MATTER OF THE APPLICATION OF EL DORADO WATER COMPANY FOR AN ORDER TO MODIFY AND CHANGE ITS RATES FOR FURNISHING WATER.

Application No. 7515.

Decided March 7, 1922.

RATES—WATER UTILITY—DIFFERENTIAL.—A differential in rates for seasonal and demand service is held justifiable in view of the fact that it is more expensive to deliver water in response to a varying demand upon short notice and further that every effort should be made to encourage use of water at the seasonal rate.

Greene and Sinclair, by *B. D. Marr Greene*, for Applicant.
W. F. Gray, for City of Placerville.

BY THE COMMISSION.

OPINION.

El Dorado Water Company, applicant herein, is a public utility engaged in the business of furnishing water for domestic, irrigation, mining and industrial purposes in and in the vicinity of the city of Placerville, El Dorado County.

The application alleges in effect that the present rates charged by the utility do not produce sufficient revenue to cover maintenance and operating expense, depreciation and a reasonable return upon the investment. The Commission is therefore asked to establish adequate rates for the service rendered.

A public hearing in this matter was held before Examiner Satterwhite, at Placerville. All interested parties were duly notified and were given an opportunity to be present and to be heard.

El Dorado Water Company was organized in 1919 and in the same year purchased its transmission distribution system of canals, reservoirs and pipe lines from Western States Gas and Electric Company for \$25,000. Since this purchase, applicant has expended in excess of \$30,000 for the improvement of its water system.

Practically all of applicant's water supply is secured by purchase from Western States Gas and Electric Company, delivery being made at a point approximately fourteen miles east of Placerville.

Applicant's entire capital stock issue is owned by El Dorado County Water Users Association, incorporated, members of which use over

seventy per cent of the water delivered to consumers. Approximately 4000 acres are irrigated with water supplied by this system.

The rates now charged by applicant for water delivered to consumers are the same as those in effect at the time the system was purchased in 1919. These rates are as follows:

General Irrigation and Mining Charge.

Per miner's inch day of 24 hours----- \$0 24

Placerville Water Works.

Now owned and operated by City of Placerville, per miner's inch day of 24 hours----- \$0 12

Monthly Schedule of Flat Rates.

For each dwelling-----	\$1 00
For each public garage-----	5 00
For each private garage-----	0 25
For sprinkling lawns or gardens, May to September, inclusive, 1/16 acre or less -----	0 35
From 1/16 to 1/8 acre-----	0 75
From 1/8 to 1/4 acre-----	1 50
Over 1/4 acre at proportionate charges.	
For street sprinkling, each cart, per day or per night-----	0 25
For Michigan California Lumber Company, for all uses, per month-----	65 00
State Highway Commission for construction and road sprinkling, per day----	3 00

The present irrigation rate of 24 cents per miner's inch day permits the consumer to order and take water at any time he so desires and the result has been a very high peak demand during the summer months with a consequent low use of water in the early and late months of the irrigation season. This unrestricted use in the summer months has compelled the applicant to draw upon Western States Gas and Electric Company for its maximum allotted rate of flow in these months and has also made it extremely difficult to put into effect a workable rotation system of deliveries.

In order to distribute the use of water more evenly over the entire irrigation season and to decrease the present excessive demand during the summer months, thereby permitting the irrigation of a greater area with the available water supply, applicant asks authority for the establishment of two schedules of rates, either one of which may be selected by the consumer. One of the proposed schedules may be described as a seasonal rate, covering a continuous flow of one miner's inch throughout an irrigation season of 122 days, beginning May 25 and ending September 24, and providing that water desired by the consumer prior to May 25 and subsequent to September 24 may be purchased at the equivalent rate per miner's inch day. The other schedule may be described as a demand rate whereby the consumer may order and use water in such quantity and at such time as he

desires, paying therefor at a rate about 25 per cent in excess of the rate per miner's inch day set out in the seasonal rate schedule described above. As the seasonal rate schedule will enable the consumer to secure his irrigation supply at a lower cost than he would be enabled to do under the demand rate, it is anticipated that the majority of consumers will select the seasonal rate schedule.

It is apparent that such a differential in rates for the two classes of service is justified in view of the fact that it is unquestionably more expensive to deliver water in response to a varying demand upon short notice, and it is further apparent that every effort should be made to encourage use of water at the seasonal rate.

Mr. R. W. Hawley, applicant's manager and engineer, submitted a report setting forth an estimated reproduction cost of the property, using pre-war prices for all structures except those installed in the recent years of high prices, amounting to \$243,658. Reproduction cost, less depreciation, was estimated at \$134,957, and the actual cost of the property to applicant was shown as \$57,003. Applicant does not seek a return upon the estimated reproduction cost of the property, or the estimated reproduction cost, less depreciation, but asks that rates be fixed so as to yield sufficient revenue to cover maintenance and operating expense, depreciation annuity and an 8 per cent return upon the actual cost of the property.

A report prepared by Messrs. J. G. Hunter and J. E. Daugherty, of the Commission's hydraulic division, was presented in evidence. This report shows the actual cost of the property as \$56,266 and a depreciation annuity, calculated by the sinking fund method, amounting to \$881.

Applicant estimates its maintenance and operating expense for 1922, not including depreciation, as \$29,456, and a careful consideration of the evidence leads to the conclusion that this amount is justified and should be allowed. The property has been very economically and efficiently operated.

Annual charges, based upon the foregoing items, are as follows:

Return at 8 per cent upon \$56,266.....	\$4,501 00
Depreciation annuity.....	881 00
Maintenance and operating expense.....	29,456 00
Total	\$34,838 00

Revenues for the year 1920 were \$27,282, and for 1921 were \$26,762, and in each instance were less than the estimated reasonable annual charges. It is therefore evident that the utility is entitled to an increase in rates.

Applicant has prepared plans for and contemplates the construction, in 1922, of a concrete arch dam on Weber Creek which will form a regulating reservoir and permit applicant to develop a portion of its water supply. It is evident that the proposed dam will improve service to consumers and eventually reduce costs of operation. It would therefore appear that the necessary expenditures are justified.

The city of Placerville purchases its entire supply for delivery to consumers through the municipally owned water system from El Dorado Water Company. A portion of this supply is secured at a very low rate in accordance with the terms of a contract made by the predecessors in interest of both parties, and dated September 26, 1873. This contract expires in 1923. Counsel for the city of Placerville contended that the schedule of proposed rates submitted by applicant would compel irrigators to stand an increase of only 25 per cent as contrasted with an increase of 100 per cent for that portion of the city's supply covered by the contract. It was also contended that the Commission had no power to abrogate the present contract rate.

It may be pointed out that this Commission is principally concerned with the reasonableness of the rate to be established and with an equitable distribution of the cost of producing and delivering the water supply among all the consumers, regardless of whether or not some of these consumers may have been supplied at unduly low rates in the past.

Inasmuch as this contract has only a short remaining life, and in view of the fact that an agreement is now being negotiated between the city trustees and applicant, looking toward a modification of the terms of the contract, it will be unnecessary to pass upon the question as to whether or not the Commission has jurisdiction in the matter.

The schedule of rates set out in the accompanying order is designed to yield sufficient revenue to cover maintenance and operating expense, depreciation annuity, and a fair return upon a reasonable investment. The rates so established will do substantial justice to both the utility and the consumer and are approximately equivalent to the rates charged by other utilities rendering a similar service.

ORDER.

El Dorado Water Company having made application as entitled above, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that the rates now charged by El Dorado Water Company for water delivered to its consumers are unjust and unreasonable, in so far as they differ from the rates herein

established, and that the rates herein established are just and reasonable rates for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that El Dorado Water Company be and the same is hereby authorized and directed to file with this Commission, within twenty (20) days from the date of this order, the following schedule of rates to be charged for water delivered to consumers in and in the vicinity of Placerville, El Dorado County, effective for all water delivered to consumers (except the supply furnished the city of Placerville under the contract heretofore referred to), subsequent to March 31, 1922:

Irrigation and Mining Rates.

Schedule 1—Demand rate:

Covering use of water upon demand by consumer, per miner's inch day of
24 hours..... \$0 30

Schedule 2—Seasonal rate:

Covering use of water by continuous flow, or its equivalent in prearranged periods, during the irrigation season of 122 days extending from May 25th to September 24th, inclusive, per miner's inch per season..... 30 00

Payable at the rate of \$6 per inch at the time of filing of application for water, on or before May 15th of each year, the remainder to be payable at the rate of \$6 per inch per month, beginning June 30th.

For water delivered prior to May 25th, or subsequent to September 24th, per miner's inch day of 24 hours..... 24

Municipal Rates.

For water supplied City of Placerville for resale through the municipal water system, per miner's inch day of 24 hours..... \$0 24

Domestic, Industrial and Public Use Rates.

Monthly flat rates:

For each dwelling served.....	\$1 25
For each private garage, not more than one automobile.....	25
For each additional automobile.....	10
For each private barn, not more than one horse or cow.....	25
For each additional horse or cow.....	10
For each public garage.....	5 00
For each store or shop.....	1 50
For soft drink establishments, either alone or in connection with other business.....	1 50
For watering lawns or other irrigation, May to September, inclusive, per 100 square feet.....	02
For Michigan California Lumber Company, for all uses, per month.....	65 00
For State Highway Commission, for sprinkling highway, per day.....	3 00

Water may be sold by measurement for any of the foregoing uses.

Monthly meter rates:

Minimum for 500 cubic feet or less.....	1 25
From 500 to 2000 cubic feet, per 100 cubic feet.....	0 12
Over 2000 cubic feet, per 100 cubic feet.....	0 06

When meters are installed on pipe line service used principally for irrigation, the rate to be charged will be computed at the foregoing meter rates up to 1000 cubic feet, and all excess at \$0.015 per 100 cubic feet.

It is hereby further ordered, that El Dorado Water Company be and the same is hereby directed to file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern relations with its consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this seventh day of March, 1922.

DECISION No. 10167.

IN THE MATTER OF THE APPLICATION OF EL DORADO WATER COMPANY, A CORPORATION, AND EL DORADO WATER CORPORATION, A CORPORATION, FOR AN ORDER AUTHORIZING THE TRANSFER OF ALL PROPERTIES.

Application No. 7571.

Decided March 7, 1922.

Greene and Sinclair, by B. D. M. Greene, for Applicant.

BY THE COMMISSION.

OPINION.

The Railroad Commission is asked to make an order authorizing El Dorado Water Company to transfer all of its properties to the El Dorado Water Corporation pursuant to the terms of the agreement filed in this proceeding and marked "Applicants' Exhibit B" and authorizing El Dorado Water Corporation to issue in payment for such properties \$75,000 of common stock and to assume all the indebtedness and obligations of the El Dorado Water Company.

A hearing was had on this application before Examiner Satterwhite in San Francisco on March 1, 1922.

El Dorado Water Company was organized in April, 1919. By Decision No. 6435, dated June 25, 1919 (Volume 16, Opinions and Orders of the Railroad Commission of California, page 944), the Railroad Commission, among other things, authorized El Dorado Water Company to issue \$25,000 of first mortgage 6 per cent bonds in payment for properties purchased from Western States Gas and Electric Company. At the time of the hearing the reproduction cost new of the properties was reported at \$139,363 and the then present value at \$129,721. Since then, the El Dorado Water Company has expended certain amounts for additions and betterments. In Application No. 7515, a rate proceeding now pending before the Commission, the company introduced an exhibit in which it reports the reproduction cost new of its properties, calculated on a pre-war price basis, at \$243,658 and the reproduction cost new, less depreciation, at \$134,957. As of December 31, 1921, El Dorado Water Company had \$8,500 of stock and

\$38,000 of interest bearing bonds outstanding. Its current indebtedness as of that date is reported at \$13,010.55. Deducting the total indebtedness from the reported reproduction cost new, less depreciation, leaves a balance of \$83,946.45.

All of the company's outstanding stock, except shares necessary to qualify directors, is owned by the El Dorado Water Users Association.

El Dorado Water Corporation was organized in February, 1922, and has an authorized stock issue of \$200,000 divided into 2000 shares of \$100 each.

The testimony in this proceeding shows that it is necessary for the company to provide an additional water supply. It is believed that such a supply can be obtained by the construction of a dam and reservoir at an estimated cost of \$125,000. It is the intention of the El Dorado Water Corporation to hereafter file an application for permission to issue bonds, to finance the construction of the dam and reservoir. The transfer of the properties and issue of stock is a preliminary step to the issue of bonds. If the Commission authorizes the transfer of the properties and the issue of stock, the El Dorado Water Company will be disincorporated and the stock issued in payment for its properties will be held by the El Dorado Water Users Association in the same manner as that association now holds the stock of the El Dorado Water Company.

The record shows that the transfer of these properties and the issue of stock in no way will result in a change in the management or operation of the properties. The only reason for the transfer of the properties is the belief that it will enable the company to more readily sell its bonds and secure a better price for such bonds.

ORDER.

Application having been filed with the Commission for permission to transfer properties and issue stock, a public hearing having been held, and the Commission being of the opinion that this application should be granted subject to the conditions of this order;

It is hereby ordered, that El Dorado Water Company be and it is hereby authorized to transfer to the El Dorado Water Corporation all of its properties pursuant to the terms of the agreement filed in this proceeding marked "Applicants' Exhibit B." El Dorado Water Corporation is hereby authorized to purchase said properties subject to the terms of said agreement and to issue in payment for the properties \$75,000 of its common stock and assume the payment of all indebtedness and the performance of all other obligations of the El Dorado Water Company.

The authority herein granted is subject to further conditions as follows:

1. The consideration for which the properties are herein authorized to be transferred shall not be urged before this Commission as a finding of the value of the properties for any purpose other than the transfer herein permitted.

2. Within thirty days after the transfer of the properties, El Dorado Water Corporation shall notify the Commission of the exact date on which it has taken possession of the properties and of the date on which it has secured title to the properties.

3. Within thirty days after its execution El Dorado Water Corporation shall file with the Commission a certified copy of the deed under which it secures and holds title to the properties herein authorized to be transferred.

4. El Dorado Water Corporation shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

5. The authority herein granted will apply only to such properties as may be transferred and to such stock as may be issued and delivered on or before June 30, 1922.

Dated at San Francisco, California, this seventh day of March, 1922.

DECISION No. 10174.

IN THE MATTER OF THE APPLICATION OF MAUDE E. STINSON, LILLIAN R. HENSILL, EVE STINSON FITZHENRY, MABEL IDELLA SKINNER AND NEWMAN L. FITZHENRY, FOR AN ORDER REVISING WATER RATES AT STINSON BEACH, MARIN COUNTY, CALIFORNIA.

Application No. 7016.

Decided March 11, 1922.

RATES—WATER UTILITY—FREE SERVICE.—Free service is held to result in discrimination. Where a return service is rendered it is held to be the proper course to charge the published rate and pay reasonable compensation for service rendered.

Newman L. Fitzhenry, for Applicant.

R. J. Airy, in *propria persona*.

B. Ohlson, in *propria persona*.

Charles Robinson, in *propria persona*.

BY THE COMMISSION.

OPINION.

Maude E. Stinson et al., applicants in the above entitled matter, own and operate a public utility water system, which supplies water

for domestic purposes to the inhabitants of Stinson Beach, also known as Willow Camp, Marin County.

The application alleges in effect that since the establishment of the present rates in December, 1915, the population of the territory has so greatly increased that the rates no longer apply to present conditions, but are discriminatory and incapable of fair application, and that increased growth of the community has made necessary the expenditure of a considerable sum of money to enlarge and improve the system. The Commission is therefore asked to readjust the rates upon the basis of a reasonable return upon the actual investment in the system, exclusive of the watershed lands, water rights and other intangible values, together with proper allowances for maintenance and operating costs and depreciation.

A public hearing in this matter was held before Examiner Geary at Stinson Beach. All interested parties were duly notified and given an opportunity to be present and to be heard.

The water supply of this system is obtained from a small stream flowing through the Stinson Ranch, and is diverted by means of a rock-filled dam, whose upstream surface and a part of the stream bed are concrete lined, thus making a storage reservoir of approximately 20,000 gallons capacity. From this reservoir water is distributed by gravity through approximately 10,000 feet of pipe lines, the majority of which is 2 inches in diameter and smaller. For a more detailed history and description of this system reference is hereby made to Decisions Nos. 3000, 8170 and 8721, covering matters involving this utility and previously passed upon by this Commission.

During the year 1921 there were 59 consumers, some of whom, however, had more than one service or had two or more cottages or apartments supplied from the same service connection, making approximately 80 houses, cottages or tents from which revenues were derived.

The rates now charged by the applicant were fixed by the Commission in Decision No. 3000, decided December 24, 1915. In this decision the Commission stated, among other things, that the rate schedule established was designed to yield a fair return to the applicant on the physical properties, allowing for a reasonable operation and maintenance cost and also depreciation, excluding however, at the request of applicant, any consideration of the value of watershed lands, riparian rights and water rights.

Present rates are as follows:

1. For cottages of one room, where the land occupied by the cottage and the land irrigated do not exceed 1500 square feet, per annum..... \$4 00
2. For all other residences, where the land occupied by the house and the land irrigated together do not exceed 7500 square feet per annum..... 6 00

3. For each additional 1000 square feet of land irrigated, per annum-----	\$0 30
4. For hotels the following schedule:	
For the dining room, per annum-----	5 00
For the bar room, per annum-----	3 00
For each bed room (which term shall include rooms in cottages connected with the hotel which are not supplied with housekeeping facilities), per annum -----	50
5. For stage or livery stables, per annum-----	6 00

The above rates are payable in advance for each calendar year.

It appears from the testimony presented, that no charges have been made in the past for water supplied to Willow Camp, a summer resort and camping ground owned by Mr. Fitzhenry, one of the applicants herein. Mr. Fitzhenry claims that this free service was more than offset by his services as manager of the utility, for which no charge was made. In order to remove discrimination, charges for the service to Willow Camp should be made in the same manner as for service to any other consumer. On the other hand, reasonable charges for Mr. Fitzhenry's services are legitimate and should be allowed.

No appraisal of the property was presented on behalf of the applicant other than the statement in the application to the effect that the sum of \$1,849.43 has been expended in 1920 and 1921 for improvements to the system and that further expenditures will be required in the immediate future for the installation of necessary storage facilities.

A report was submitted by Mr. M. R. MacKall, one of the Commission's hydraulic engineers, which shows an estimated original cost of the system, exclusive of watershed lands, riparian rights and water rights, amounting to \$3,600; a depreciation annuity, computed by the sinking fund method, of \$38; and which recommends an allowance of \$305 for annual maintenance and operating expense.

Certain consumers raised the question as to the property of including the entire cost of the new pipe lines installed in 1920 and 1921 in the rate base, in view of the fact that the applicant, being also in the real estate business in the community served by this utility, would necessarily benefit by the appreciated value of the land so served. In this regard it is sufficient to say that, as the entire distribution system is handicapped by small-sized mains, the new pipe lines not only relieve the heavy demands on the other mains, thereby providing better service, but also serve several consumers formerly supplied by other pipe lines.

The installation of additional storage facilities and the placing of meters on the larger water users will practically eliminate the past difficulties of water shortage and the inadequate service which frequently occurred in summer during Sundays and holidays. For this reason it appears that the sum of \$900 should be added to the estimated original cost of \$3,600 in order to permit the installation of

these necessary improvements. This addition to the estimated original cost of the system will result in an increase of the depreciation annuity to \$48.

The following is a summary of the annual charges outlined above:

Return on \$4,500 at 8 per cent-----	\$360 00
Replacement fund-----	48 00
Maintenance and operation expense-----	305 00
Total -----	\$713 00

Revenues for the year 1921, based upon the collection of established rates from all consumers, are estimated, from the testimony presented, as approximately \$600.

It is apparent that the present rates do not yield an adequate return and that a readjustment of rates should be made. The schedule established in the following order is designed to produce revenues approximately equal to the annual charges above set out.

ORDER.

Maude E. Stinson, Lillian R. Hensill, Eve Stinson Fitzhenry, Mabel Idella Skinner and Newman L. Fitzhenry having made application as entitled above, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that the rates now charged by applicants herein for water supplied to consumers in Stinson Beach and vicinity are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates to be charged for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the opinion which precedes this order;

It is hereby ordered, that applicants herein be and they are hereby authorized and directed to file with this Commission, within twenty (20) days from the date of this order, the following schedule of rates for water delivered to consumers in Stinson Beach and vicinity, effective for water supplied subsequent to March 31, 1922:

RATE SCHEDULE.

1. For cottages of one room, where the land occupied by the cottage and the land irrigated together do not exceed 1500 square feet, per annum----- \$5 00
2. For residences, where the land occupied by the house and the land irrigated together do not exceed 7500 square feet, per annum----- 7 50
3. For tents or cottages fitted with running water, used as auxiliary living quarters or rented for profit, when not served by direct connection from mains, per annum----- 3 00
4. For each additional 1000 square feet of land irrigated, per annum----- 30
5. Service for the year 1922 shall be paid for upon the basis of three months at the rates now in effect and nine months at the rates herein established.

RATE SCHEDULE—Continued.

6. Water for all purposes for establishments not herein specified, including hotels, restaurants, stores, Willow Camp, etc., to be charged for at meter rates.
7. Meters may be installed at the request of any consumer or at the option of the utility.

METERED USE.

Annual charge, payable in advance, entitling consumer to a maximum of 300 cubic feet of water per month during the calendar year----- \$7 20

MONTHLY QUANTITY RATES.

First 300 cubic feet, per 100 cubic feet-----	\$0 20
Next 1700 cubic feet, per 100 cubic feet-----	10
All use over 2000 cubic feet, per 100 cubic feet-----	08

It is hereby further ordered, that the collection of the rates set out in the foregoing schedule is expressly conditioned upon the installation, by applicants herein, of additional storage facilities of a capacity of not less than 40,000 gallons, such storage facilities to be so connected with the distribution mains that the entire system will derive the benefit thereof, and to be installed and in operation in a manner satisfactory to the Commission on or before the first day of May, 1922.

It is hereby further ordered, that applicants herein be and they are hereby directed to file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern relations with their consumers, such rules and regulations to become effective upon their acceptance by this Commission.

Dated at San Francisco, California, this eleventh day of March, 1922.

DECISION No. 10175.

IN THE MATTER OF THE APPLICATION OF THE SACRAMENTO NORTHERN RAILROAD, A CORPORATION, FOR AUTHORITY TO INCREASE CERTAIN SWITCHING CHARGES AT SACRAMENTO, CALIFORNIA.

Application No. 6812.

Decided March 11, 1922.

BY THE COMMISSION.

OPINION ON APPLICATION FOR REHEARING.

On December 31, 1921, the Sacramento Northern Railroad, applicant in this proceeding, filed with the Railroad Commission a petition for rehearing on Decision No. 9545, Application No. 6812, issued September 23, 1921. Notice of intention to file petition for rehearing in the matter was given to the Commission on October 8, 1921. Various extensions of time for the filing of such petition were granted by the Commission upon request of petitioners.

This proceeding involved the bridge or interchange switching charges of the Sacramento Northern Railroad for moving earload shipments of freight between the transfer tracks of the San Francisco-Sacramento Railroad Company at West Side, Yolo County, and the transfer tracks of the Southern Pacific Company, Western Pacific Railroad Company and Central California Traction Company at Sacramento.

The charges of the Sacramento Northern Railroad for the earload switching service between the transfer tracks above referred to are \$3 per car when such switching is incidental to a foreign line haul and \$4 per car when not incidental to a foreign line haul.

The Sacramento Northern Railroad asked the Commission for authority to increase the intermediate earload switching rate to 37½ cents per ton, with a minimum charge of \$6.50 per car.

A hearing was held, testimony given and exhibits introduced. The testimony and exhibits were carefully considered in connection with the application and the Commission found that the applicant, Sacramento Northern Railroad, had failed to justify the proposed increases and, therefore, denied the application.

Comes now the petitioner, Sacramento Northern Railroad, and presents certain reasons why a rehearing should be granted by the Commission:

First, that an error was made in the decision in assuming that the case involved a reciprocal switching arrangement; secondly, that when the reciprocal condition does not exist the charge for the service furnished should be an adequate one considered by itself; and thirdly, that the cost of the service performed has been shown to be \$6.89 per loaded car.

It is the opinion of this Commission, in the light of the whole record and particularly in view of the contention which has arisen over the use of the term "reciprocal switching" that a rehearing should be granted applicant.

ORDER GRANTING APPLICATION FOR REHEARING.

Applicant, Sacramento Northern Railroad, having, on December 31, 1921, filed a petition for rehearing in the above entitled matter, the Commission having reviewed and reconsidered the whole record, and being of the opinion that a rehearing should be given;

It is hereby ordered, that petition for a rehearing be and the same is hereby granted.

Dated at San Francisco, California, this eleventh day of March, 1922.

DECISION No. 10177.

IN THE MATTER OF THE APPLICATION OF THE CONSOLIDATED WATER COMPANY OF POMONA, A CORPORATION ORGANIZED UNDER THE LAWS OF THE STATE OF CALIFORNIA, ASKING FOR A HEARING IN REGARD TO INCREASING RATES.

Application No. 6409.

Decided March 11, 1922.

RATES—WATER UTILITY—OVERBUILT SYSTEM—FULL RETURN NOT ALLOWED.—

Where a system covers a large area, parts of which are sparsely settled and where there is duplication resulting from consolidation of competing systems, it is held that a rate sufficiently high to give a full return on the total cost of the system would unduly burden present consumers.

Haas and Dunnigan, by *Walter F. Haas*, for Applicant.
J. A. Allard, City Attorney, for the City of Pomona.

BY THE COMMISSION.

OPINION.

This is an application asking for authority to increase rates made by Consolidated Water Company of Pomona, a public utility engaged in the business of supplying water for domestic and irrigation purposes in Los Angeles and San Bernardino Counties, in and in the vicinity of Pomona.

The application alleges in effect that in order to adequately supply consumers it is necessary to build additional reservoirs, new pipe lines, wells and pumping plants, and to incur additional expenditures in connection with the protection of its water supply and rights; and that because of increased costs of labor and materials its operating expense has greatly increased. The Commission is therefore asked to grant a hearing as to its needs and requirements regarding necessary increases in rates charged consumers.

A public hearing in this matter was held at Pomona, before Examiner Satterwhite, of which all interested parties were notified and given an opportunity to be present and to be heard.

The Consolidated Water Company was organized in 1896, taking over at that time the water producing properties of Messrs. Fleming, Becket and Brady and the properties of the Pomona City Water Works, the Citizens Water Company, and the Pomona Land and Water Company. In 1921 the water system owned by Nemaha Land Company, was acquired and is now operated as a part of applicant's property.

The Pomona Valley Protective Association, of which this utility is a member, was incorporated in 1909 by various individuals and corporations for the purpose of protecting their water rights by means of litigation, and by the acquisition of lands. The association has also built a dam and channels for the diversion and spreading of water

over its property in order to assist in the replenishment of the underground storage. Expenses incurred in this work have resulted in decided improvement in water supply conditions throughout the area affected and this utility's proportion of such expense is a legitimate charge against the cost of procuring its water supply.

This system consists of collecting tunnels, having a total length of 3916 feet, constructed through water-bearing lands; nine wells and pumping plants in use, two of which are in the tunnels; two concrete reservoirs of a combined capacity of 1,800,000 gallons; 35,721 feet of transmission pipe lines from 6 to 20 inches in diameter; 443,385 feet of distribution pipe lines from 1 to 14 inches in diameter; and 4136 services of which 3415 are metered. The supply derived from the tunnels and wells is stored in the reservoirs and from there distributed to the consumers. In addition to the foregoing facilities, there is a fire system in the city of Pomona having a total length of 26,655 feet, composed of cast iron and riveted steel pipe ranging in size from 6 to 12 inches in diameter.

The present rates charged by the utility were established by the city of Pomona before this Commission was given jurisdiction over such matters, and this is the first instance in which the Commission has been asked to establish rates for applicant. Such other proceedings before the Commission in which the utility has been involved have consisted of applications for authority to issue notes or bonds, to sell real estate, and to acquire a water system.

The present rate schedule may be briefed as follows:

MONTHLY METER RATES.

5/8 or 3/4 inch meter, entitling consumer to 600 cubic feet of water.....	\$1 00
1 inch meter, entitling consumer to 900 cubic feet of water.....	1 50
1½ inch meter, entitling consumer to 1050 cubic feet of water.....	1 75
2 inch meter, entitling consumer to 1200 cubic feet of water.....	2 00
For all water used between the above monthly minima and 2500 cubic feet, per 100 cubic feet.....	0 10
For all water used in excess of 2500 cubic feet, per 100 cubic feet.....	0 08
Certain exceptions to these rates exist as follows:	
Southern Pacific and Salt Lake Railroads:	
First 1,500,000 cubic feet, per 100 cubic feet.....	0 06
Over 1,500,000 cubic feet, per 100 cubic feet.....	0 0525
Pomona Valley Ice Company, per 100 cubic feet.....	0 06
Public Schools.....	0 05

A schedule of flat rates is also in effect, ranging from 75 cents per month upward.

At the hearing of this matter, Mr. Willis S. Jones, on behalf of applicant, and Mr. F. H. Van Hoesen, one of the Commission's hydraulic engineers, presented reports setting forth estimates of original cost of the water system, depreciation annuity, and mainte-

nance and operating expense for the future. The results of these presentations are summarized as follows:

Items	Willis S. Jones	F. H. Van Hoesen
Physical properties.....	\$519,154 00	\$489,325 00
Lands, rights of way, etc.....	55,245 00	*
Water rights.....	133,988 00	*
Working capital.....	10,000 00	6,000 00
Going value.....	43,000 00	-----
Total estimated original cost.....	\$761,387 00	†\$495,325 00
Depreciation annuity.....	8,661 00	8,383 00
Maintenance and operating expense.....	65,630 00	45,756 00

*Not included in report submitted.

†Does not include lands, rights of way or water rights.

It appears that Mr. Jones' estimates of original cost of the system, with the exception of "going value" and working capital, are based upon records of actual expenditures, also that the unit costs used are reasonable. The testimony indicates that there has been actually expended for capital installation, including replacements, since the organization of the company in 1896, the equivalent of at least \$708,000. It was shown, however, that this amount does include the cost of certain replacements and of properties which have been disposed of by sale, but the proper deduction to be made in order to obtain the actual cost of the used and useful property as it now exists, could not be determined from the testimony submitted nor from the records of the utility.

Both Mr. Jones and Mr. Van Hoesen have calculated depreciation annuities upon the sinking fund method at 6 per cent, and are substantially in accord as to results. Careful consideration of the evidence indicates that \$8,500 should be allowed for this purpose.

Maintenance and operating expense for the future was estimated by Mr. Jones at \$65,630 per year, while Mr. Van Hoesen presented an estimate of \$45,756, based largely upon costs in 1920, with adjustments for items he considers as proper deductions. It appears that the president and general manager and secretary of the utility devote a very small portion of their time to the actual business of the water system and have many outside interests. It also appears that prices of materials and power have decreased since 1920. Applicant contends, however, that the number of consumers has largely increased and that extensive litigation, with a view to the protection of its water rights, will require the expenditure of larger sums than in the past. In view of all the circumstances it is believed that an allowance of \$50,000 per year will be an ample allowance for maintaining and operating expense for the immediate future.

Revenues from the sale of water, including Nemaha Land Company's system, have been as follows:

1919	-----	\$77,965 00
1920	-----	84,594 00
1921 (January to July, inclusive)	-----	47,835 00

Results of operation based upon the foregoing allowances for depreciation annuity and maintenance and operating expense and upon 1920 revenues would be as follows:

Revenues, 1920	-----	\$84,594 00
Expense:		
Depreciation annuity	-----	\$8,500 00
Maintenance and operating expense	-----	50,000 00
		<hr/>
Total expense	-----	58,500 00
		<hr/>
Net revenues	-----	\$26,094 00

This is equivalent to an 8 per cent return upon \$326,175, or \$163,150 less than Mr. Van Hoesen's estimate of original cost of physical properties only. It is therefore apparent that the utility is entitled to an increase in rates.

As this system covers a large area, portions of which are very sparsely settled, and as many of the streets are traversed by parallel pipe lines installed by the former competing water systems now consolidated into one, it is apparent that a rate sufficiently high to give a full return upon the total cost of the system would unduly burden the present consumers. It will, therefore, at this time, be unnecessary to discuss in greater detail the matter of water rights and other items claimed by applicant as proper inclusions in rate base.

The rate schedule set out in the accompanying order will be designed to yield sufficient revenue to cover maintenance and operating expense, depreciation annuity, and a fair return upon a reasonable rate base.

ORDER.

Consolidated Water Company of Pomona having made application as entitled above, a public hearing having been held thereon, briefs having been filed, and the Commission being fully informed in the matter:

It is hereby found as a fact that the rates now charged by Consolidated Water Company of Pomona, for water delivered to consumers in and in the vicinity of Pomona, are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that Consolidated Water Company of Pomona be and the same is hereby authorized and directed to file with this

Commission, within twenty (20) days from the date of this order, the following schedule of rates to be charged for water delivered to its public utility consumers in and in the vicinity of Pomona, effective for all water delivered subsequent to March 31, 1922, or the meter reading period next preceeding that date:

METER RATES.

Monthly minimum charges:

½-inch meter.....	\$1 25
¾-inch meter.....	1 50
1-inch meter.....	2 00
1½-inch meter.....	2 50
2-inch meter.....	3 00
3-inch meter.....	4 00
4-inch meter.....	5 00

Monthly charges for water consumed:

From 0 to 500 cubic feet, per 100 cubic feet.....	0 25
From 500 to 5000 cubic feet, per 100 cubic feet.....	0 15
Over 5000 cubic feet, per 100 cubic feet.....	0 08

MONTHLY FLAT RATES.

1. Residences, boarding houses, apartments, lodging houses, tenements and flats of five rooms or less, including toilet and bath.....	1 50
For each additional room.....	10
For each additional bath tub.....	25
For each additional toilet.....	25
Additional for each private garage and one automobile.....	25
For each additional automobile.....	25
Additional for private barn, with not more than two horses or cows..	50
For each additional horse or cow.....	20
2. Sprinkling or irrigation of lawns, shrubbery, trees, gardens, etc., per square yard of surface actually irrigated.....	008
3. Blacksmith shops, machine shops, lumber yards, printing offices, bakeries, undertaking parlors, grocery stores, theatres, warehouses, butcher shops and large stores.....	2 00
4. Drug stores, dental offices and photograph galleries.....	3 50
5. Bottling works, creameries, slaughter houses and laundries.....	5 00
6. Banks, professional offices, billiard parlors, fraternal halls, clubrooms, churches, plumbing shops, stores and shops not otherwise listed....	1 50
7. Office buildings, for each room.....	50
8. Restaurants, chop houses and cafes, per unit seating capacity.....	15
9. Livery stables and feed yards, per average number of stock fed, each..	25
10. Barns in connection with stores, shops, etc., not more than two horses..	50
For each additional horse.....	20
11. Public garage, six automobiles or less.....	3 00
For each additional automobile.....	50
12. Soda fountains and ice cream stands, either alone or in connection with other business.....	2 50
13. Barber shops, per chair.....	1 00
Additional for each bath tub.....	1 00
Additional for each toilet.....	50
14. Hotels:	
Dining room.....	2 00
Bedroom and running water.....	25
Each bath tub.....	50
Each toilet.....	30
15. Building work:	
For mortar and to dampen brick, per 1000 brick.....	35
For cement work, each barrel.....	15

All uses not specified above to be charged at meter rates.

Meters may be installed upon any service at the option of either the consumer or the utility.

MUNICIPAL RATES.

For each fire hydrant attached to mains of 4 inches diameter or larger, per month -----	\$1 00
For each fire hydrant attached to mains of less than 4 inches diameter, per month -----	50
All other municipal charges at the meter rates.	

It is hereby further ordered, that Consolidated Water Company of Pomona be and it is hereby directed to file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern the distribution of water to its consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this eleventh day of March, 1922.

DECISION No. 10178.

IN THE MATTER OF THE APPLICATION OF THE WILLOWBROOK WATER COMPANY, A CORPORATION, TO INCREASE RATES.

Application No. 7449.

Decided March 11, 1922.

RATES—WATER UTILITY—METERS.—Flat rate schedules are declared to lead to extravagant and wasteful use of water and the installation of meters is recommended to minimize waste and more evenly to distribute the cost of production.

John B. Haas, for Applicant.

Frank McCormick, for Consumers.

BY THE COMMISSION.

OPINION.

Willowbrook Water Company, applicant in the above entitled proceeding, is engaged in the business of supplying water for domestic purposes in and in the vicinity of Willowbrook, Los Angeles County.

The application alleges in effect that the present rates do not yield an adequate return, and the Commission is asked to authorize an increase in rates.

A public hearing in this matter was held at Long Beach, before Examiner Williams. All interested parties were duly notified and given an opportunity to be present and to be heard.

Applicant's water system consists of two 6-inch wells, 275 feet deep, equipped with electrically-operated centrifugal pumps; two storage tanks of a total capacity of 65,000 gallons; 24,780 feet of 4-inch and 6-inch distribution pipe mains; and 257 services, none of which are metered.

The territory supplied consists generally of lots of one-half acre in area, and the present flat rate for such occupancy is \$1.50 per month. Three consumers, whose lots are less than one-half acre in

area, are supplied at \$1 per month. Many of these lots have dwellings, garages and gardens occupying the entire space, and a number are occupied by two dwellings, but no extra charge has been made by the utility for the additional use of water occasioned thereby.

The system is not in the best of condition, and in order to give efficient service in the future, will require the installation of a new well and pumping equipment and repair of the pipe lines. Owing to the flat rate schedule in effect there has been an extravagant and wasteful use of water, and meters should be installed in order to minimize waste and more evenly distribute the cost of production among consumers.

Mr. M. I. Reed, one of the Commission's hydraulic engineers, presented a report, based upon an investigation of the system, which set forth an estimated original cost of the present system amounting to \$13,582. Depreciation annuity, computed by the sinking fund method, was given as \$235. Reasonable maintenance and operating expense for the future was estimated at \$2,954.

Annual charges, based upon the foregoing items, would be as follows:

Return at 8 per cent upon \$13,582 -----	\$1,087 00
Depreciation annuity -----	235 00
Maintenance and operating expense -----	2,954 00
Total -----	\$4,276 00

Revenues for the year 1921 were \$3,566 and for 1920 were \$3,218. Although there has been a steady increase in revenues during the past few years, it is apparent that the utility is entitled to an increase in rates, especially in view of the fact that interest on the cost of necessary improvements to the system which applicant plans to install this year will more than offset the revenues derived from increase in its business.

Testimony shows that the present rate schedule, which provides for flat rate charges based upon each lot, instead of upon the various uses to which the water is put, does not permit applicant to make justifiable charges which would increase its revenues. It is, therefore, apparent that a part of the necessary increase in revenues should be secured through a modification of the schedule rather than a flat increase.

The schedule of rates set out in the accompanying order is resigned to do substantial justice to both the consumers and the utility, and is established after a careful consideration of all pertinent evidence.

ORDER.

Willowbrook Water Company, a corporation, having made application as entitled above, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that the rates now charged by Willowbrook Water Company for water delivered to consumers in and in the vicinity of Willowbrook, Los Angeles County, are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that Willowbrook Water Company, incorporated, be and the same is hereby authorized and directed to file with this Commission, within twenty (20) days from the date of this order, the following schedule of rates to be charged consumers, effective for all water delivered subsequent to March 31, 1922:

MONTHLY FLAT RATE SCHEDULE.

Residences of five rooms or less, including bath and toilet.....	\$1 50
For each additional room	10
For each private garage with not more than one automobile.....	15
For each additional automobile	10
For each private barn with not more than one horse or cow.....	15
For each additional horse or cow	10
For each store or shop	1 50
Barber shops with not more than two chairs.....	1 50
For each additional chair	50
For sprinkling lawns, gardens or shrubbery, in connection with residence, not to exceed one-eighth acre, for each month of actual use	25
For each additional one-eighth acre.....	25
For irrigation through two-inch services, per hour	10
Minimum charge per day for irrigation through two-inch services	50
Irrigation service to be furnished only when a plentiful supply of water is available.	

MONTHLY METER RATES.

<i>Minimum charges:</i>	
$\frac{3}{4}$ -inch meter	\$1 25
$\frac{1}{2}$ -inch meter	1 50
1-inch meter	2 00
1½-inch meter	2 50
2-inch meter	3 00
3-inch meter	4 00
<i>Meter rates:</i>	
From 0 to 500 cubic feet, per 100 cubic feet	\$0 25
From 500 to 1000 cubic feet, per 100 cubic feet	20
From 1000 to 2000 cubic feet, per 100 cubic feet	15
Over 2000 cubic feet, per 100 cubic feet	12

Meters may be installed upon any service at the option of either the utility or the consumer. If installed at the option of the utility, no charge shall be made. If installed at consumer's request the estimated cost shall be advanced to the utility by the consumer and thereafter refunded, as a credit upon the monthly bills for water used, at the rate of twenty-five per cent of the amount of such bills.

It is hereby further ordered, that the collection of the rates herein established is expressly conditioned upon the filing by Willowbrook

Water Company, with this Commission, within twenty (20) days of the date of this order, of plans and specifications for such improvements of its system as are required to render adequate and efficient service to consumers, and upon the installation of such necessary improvements by Willowbrook Water Company within a reasonable time after the approval of said plans and specifications by this Commission.

It is hereby further ordered, that Willowbrook Water Company be and the same is hereby directed to file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern relations with its consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this eleventh day of March, 1922.

DECISION No. 10179.

IN THE MATTER OF THE APPLICATION OF PIRU OIL AND LAND COMPANY, A CORPORATION, FOR THE FIXING OF WATER RATES FOR THE WATER SYSTEM IN THE TOWN OF PIRU.

Application No. 7144.

Decided March 11, 1922.

RATES—WATER UTILITY—JURISDICTION.—Irrigation service applied to applicant's own property is declared to be in the nature of a private supply. Domestic use is held to be unquestionably a public utility service and subject to the jurisdiction of the Commission.

RATES—OVERBUILT SYSTEM—FULL RETURN NOT ALLOWED.—When a system is largely overbuilt and the plant is of larger capacity than is required for service to the public utility consumers, it is held that rates sufficiently high to produce the full return of the annual charges would be unreasonably high and would place too great a burden upon the public utility consumers.

Chapman and Chapman, by *L. M. Chapman*, for Applicant.
Hugh Waring, for Consumers.

BY THE COMMISSION.

OPINION.

Piru Oil and Land Company, incorporated, the applicant in the above entitled matter, supplies water for domestic purposes to consumers in the town of Piru, Ventura County, and also for irrigation use upon its own lands in the vicinity.

The application alleges in effect that the present rates charged consumers do not produce sufficient revenue to cover maintenance and operating expense, depreciation, and a reasonable return upon the investment. The Commission is therefore asked to establish reasonable rates for the service rendered.

A public hearing in this matter was held at Piru, before Examiner Williams. All interested parties were duly notified and were given an opportunity to be present and to be heard.

It appears that Piru Oil and Land Company was incorporated in the year 1900 for the purpose of acquiring a large tract of land in Ventura County, to develop the land for agricultural uses, and to prospect for oil and gas. The former owner of the property had developed a water supply on Piru Creek, had transported the water to the town of Piru through the so-called Esperanza Pipe Line, and distributed the same to consumers in the town for domestic purposes and also for irrigation uses on lands in the vicinity.

In the course of time the Esperanza Pipe Line became so dilapidated that applicant in 1915 constructed a well and pumping plant, from which its water supply has since been obtained.

The present system consists of a 75-horsepower electric motor; a 5-inch, 3-stage, Byron Jackson, vertical centrifugal pump; a 16-inch well in a concrete-lined pit, with a total depth of about 210 feet; a steel storage tank of 420,000 gallons capacity; 28,700 feet of distribution pipe mains, ranging in size from 10-inch to 3-inch in diameter; and 95 service connections, of which 35 are metered.

The present rate charged for domestic service is \$1.50 per month, all consumers being charged at flat rates. Applicant desires to complete the metering of its system and to charge for water used at meter rates after the same are established.

It appears that the irrigation service, being supplied to applicant's own property, is in the nature of a private supply. The domestic use, however, is unquestionably a public utility service and subject to the jurisdiction of this Commission.

Applicant claims a total capital investment in its water system of \$14,802, but investigation discloses the fact that not all items of property are included therein, and that the cost of many structures has been charged to operating expense.

Mr. John Spencer, one of the Commission's hydraulic engineers, submitted a report, based upon an investigation of the property, wherein the estimated original cost of the entire system was shown as \$18,612. Depreciation annuity, calculated by the sinking fund method, was given as \$190. Maintenance and operating expense for conducting applicant's public utility business was estimated at \$1,240.

Annual charges, based upon the foregoing items, are as follows:

Eight per cent return upon \$18,612	\$1,489 00
Depreciation annuity	190 00
Maintenance and operating expense	1,240 00
Total	\$2,919 00

Revenues at the present rates are estimated as approximately \$1,620 per year.

It was shown that the distribution system is largely overbuilt in some sections and that the plant in general is of larger capacity than is required for service to the public utility consumers. It is evident, therefore, that rates sufficiently high to produce the full amount of the annual charges set out above would be unreasonably high; would place too great a burden upon the public utility consumers; and would compel them to pay a portion of the cost of the irrigation supply for applicant's lands.

It appears that the interests of both the utility and the consumers would be best served by metering of the public utility service. It also appears that applicant keeps no segregated records of the quantities of water pumped for its irrigation or domestic service, thereby preventing any accurate determination of the actual cost of furnishing water to the public utility customers, and making it extremely difficult to establish an equitable schedule of rates.

Inasmuch as applicant has signified its intention of completing the metering of its domestic consumers, the present flat rate schedule will not be changed but a schedule of meter rates will be established which is designed to produce sufficient revenue to cover maintenance and operating expense, depreciation annuity, and a fair return upon a reasonable investment in the property devoted to the public use.

ORDER.

Piru Oil and Land Company, incorporated, having made application as entitled above, a public hearing having been held thereon and the matter having been submitted:

It is hereby found as a fact that the rates now charged by Piru Oil and Land Company, incorporated, for water delivered to consumers in the town of Piru, Ventura County, are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that Piru Oil and Land Company, incorporated, be and the same is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order, the following schedule of rates to be charged consumers in Piru, Ventura County, effective for all water delivered subsequent to March 31, 1922:

METER RATES.

Monthly minimum charges:

$\frac{1}{8}$ -inch meter	-----	\$1 50
$\frac{3}{8}$ -inch meter	-----	2 00
1 -inch meter	-----	2 50
1½-inch meter	-----	3 00
2 -inch meter	-----	4 00

Monthly meter rates:

From 0 to 600 cubic feet, per 100 cubic feet -----	\$0 25
From 600 to 1000 cubic feet, per 100 cubic feet -----	20
Over 1000 cubic feet, per 100 cubic feet -----	15

FLAT RATES.

Monthly charge -----	\$1 50
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It is hereby further ordered, that the collection of the rates herein established is expressly conditioned upon the installation, within a reasonable time, by Piru Oil and Land Company of such devices as are required for the measurement of water supplied for both domestic and irrigation use, and upon the keeping of accurate records of the quantities of water supplied for such purposes.

It is hereby further ordered, that Piru Oil and Land Company, incorporated, be and the same is hereby directed to file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern relations with its consumers, such rules and regulations to become effective upon their acceptance by this Commission.

Dated at San Francisco, California, this eleventh day of March, 1922.

DECISION No. 10180.

IN THE MATTER OF THE APPLICATION OF OAK PARK WATER COMPANY, A CORPORATION ORGANIZED AND EXISTING UNDER AND BY VIRTUE OF THE LAWS OF THE STATE OF CALIFORNIA, FOR AN ORDER AUTHORIZING IT TO MAKE INCREASES IN ITS CHARGES FOR WATER SERVED FOR DOMESTIC PURPOSES, IRRIGATION AND OTHER USES OF WATER IN THE CITY OF SACRAMENTO AND VICINITY, STATE OF CALIFORNIA, AND ALSO TO INSTALL A METER SCHEDULE OF RATES.

Application No. 7162.

Decided March 11, 1922.

Dorney, Dorney and Seymour, by *Stephen Dorney*, for Applicant.

J. R. Park, for Colonial Heights Improvement Club Committee.

A. J. Harder, for Oak Park Merchants Association.

H. Meier, for West Curtis Oaks.

Claude Simpson, for Boxler Tract.

Walter J. Measure, in *propria persona*.

J. S. Daley, in *propria persona*.

BY THE COMMISSION.

OPINION.

Oak Park Water Company, applicant in the above entitled matter, is a public utility engaged in the business of furnishing water for domestic and other uses, in and in the vicinity of the city of Sacramento.

Applicant asks for authority to increase its present rates, alleging in effect that these rates are inadequate and do not provide sufficient

revenue to cover maintenance and operating expense, depreciation, and a fair return upon the capital invested.

A public hearing was held in this matter, before Examiner Satterwhite, at Oak Park. All interested parties were duly notified and were given an opportunity to appear and to be heard.

The Oak Park Water Company was incorporated December 5, 1903, and on June 8, 1904, a franchise was granted by the County of Sacramento, permitting the operation of a water system at Oak Park, Oak Grove and adjacent territory, all of which at that time was outside the limits of the city of Sacramento. The greater part of this territory has subsequently been annexed to the city.

The system consists of five pumping plants, located at different points throughout the territory served. Water is obtained from a number of wells of an average depth of about 200 feet and is delivered direct into the mains by electrically-driven turbine pumps. Two tanks on a 66-foot tower furnish a storage capacity of 140,000 gallons. The distribution system consists of about 36.1 miles of mains, the maximum diameter being 12 inches. The pressure maintained on the system is approximately 35 pounds. About 3100 consumers are served, at flat rates.

The city of Sacramento operates a municipal water system, and when this territory was annexed, the city's pipes were extended to supply the section, with the result that the mains of the Oak Park Water Company are generally paralleled by the mains of the municipal system, which now furnishes all facilities for fire service.

The rates now in effect were filed with this Commission in 1912 and provide for a payment of \$1.25 per month for a dwelling, including the irrigation of the lot. A meter rate is provided for in the filed rates but has only been applied in a few instances.

Applicant submitted in evidence its annual reports to the Commission and a balance sheet for the year ending December 31, 1921. These exhibits indicate a capital investment amounting to \$219,942, and maintenance and operating expense for the year 1921 of \$37,933. It appears, however, that this statement of capital investment includes property abandoned or retired from service and that the cost of such property has not been written off the books.

Mr. John Spencer, one of the Commission's hydraulic engineers, presented a report, based upon an investigation of the system, which set forth an estimated original cost of the property amounting to \$177,608; a depreciation annuity, computed by the sinking fund method, of \$3,220; and an estimate of reasonable maintenance and operating expense for the future of \$35,303.

No objection was made to the figures presented and they will therefore be used for the purpose of this proceeding.

Annual charges are as follows:

Return at 8 per cent upon \$177,608	\$14,209 00
Depreciation annuity	3,220 00
Maintenance and operating expense	35,303 00
Total	\$52,732 06

Revenues for the past four years have been as follows:

1918	\$38,179 00
1919	40,723 00
1920	42,711 00
1921	45,956 00

A study of the revenues as set out above indicates that the territory is steadily developing and the utility's business is increasing. It is apparent, however, that additional capital expenditures are constantly required to keep pace with the increase in consumers and it is also apparent that in order to meet continuous increased demands for water, additional pumping facilities will soon be required.

A consideration of all pertinent evidence leads to the conclusion that an increase in rates is justified.

ORDER.

Oak Park Water Company, a corporation, having made application as entitled above, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that the rates now charged by Oak Park Water Company, a corporation, for water delivered to consumers in and in the vicinity of the city of Sacramento are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates to be charged for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that Oak Park Water Company, incorporated, be and the same is hereby authorized and directed to file with this Commission, within twenty (20) days from the date of this order, the following schedule of rates to be charged for water delivered to consumers in and in the vicinity of the city of Sacramento, effective for all water furnished subsequent to March 31, 1922:

MONTHLY FLAT RATES.

1. Dwellings of five rooms or less, including irrigation of lot on which house is located, if not over 700 square yards \$1 40
2. Each flat, lodging or boarding house of five rooms or less (no irrigation) 1 25
3. For each additional room in Items 1 and 2 (pantry, closets, bathroom, toilet, not counted) 10

MONTHLY FLAT RATES—Continued.

4. Private barn or garage, with one head of stock or one motor vehicle----	\$0 25
Additional for each head of stock or motor vehicle over one-----	20
5. Dry goods stores, groceries, warehouses, undertaking parlors, printing offices, lumber and fuel yards, machine shops, blacksmith shops, theaters	1 75
6. Meat markets, billiard parlors, ice cream parlors, soft-drink establish- ments, drug stores -----	2 00
7. Where hot lunches are served, additional -----	1 00
8. Bakeries, restaurants, chop houses -----	\$2.00 to 6 00
9. Barber shop, for first chair -----	1 25
For each additional chair over one -----	25
For each bath tub or shower in connection with barber shop-----	50
10. Professional offices, fraternal halls, club rooms, shoe shops, real estate offices, and stores not otherwise listed -----	1 50
11. Stables or garages used in connection with Items 5 to 9 inclusive, per head of stock or each motor vehicle -----	25
12. Laundries, schools, garages, stables, feed yards, according to use--	\$3.00 to 10 00
13. Hotels, according to use -----	\$5.00 to 10 00
14. Sprinkling or irrigation, not included in Item 1, for each month irrigated, per 100 square feet -----	05
15. Construction use:	
For each barrel of cement or lime used -----	10
For each 1000 of bricks dampened -----	15
For settling trenches, per lineal foot -----	01
For settling graded streets, sidewalks, etc., per 100 square feet-----	25
16. Minimum charge -----	1 25
All other use to be paid for at measured rates.	

MONTHLY METER RATES.

500 cubic feet or less -----	1 25
500 to 1000 cubic feet, per 100 cubic feet -----	20
1000 to 2000 cubic feet, per 100 cubic feet -----	15
All use in excess of 2000 cubic feet, per 100 cubic feet -----	10

MONTHLY MINIMUM CHARGES.

$\frac{1}{8}$ -inch meter -----	1 25
$\frac{1}{4}$ -inch meter -----	1 50
1 -inch meter -----	1 75
1 $\frac{1}{2}$ -inch meter -----	2 25
2 -inch meter -----	3 00

Meters may be installed at the option of either the consumer or the utility.

It is hereby further ordered, that Oak Park Water Company be and it is hereby directed to file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern relations with its consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this eleventh day of March, 1922.

DECISION No. 10185.

IN THE MATTER OF THE APPLICATION OF TORRANCE WATER,
LIGHT AND POWER COMPANY FOR AN INCREASE IN WATER
RATES.

Application No. 7229.

Decided March 14, 1922.

Overton, Lyman and Plumb, by *Eugene Overton*, for Applicant.
H. G. Briney, for City of Torrance.
R. E. Wedikine, for Pacific Electric Company.

W. Teale, for Union Tool Company.
E. H. Nash, for Llewellyn Iron Works.

BY THE COMMISSION.

OPINION.

Torrance Water, Light and Power Company, the applicant herein, is a public utility supplying water for domestic, irrigation, industrial and municipal purposes in and adjacent to the city of Torrance, Los Angeles County. In this proceeding applicant asks for authority to increase rates and alleges in effect that its present revenues are not sufficient to provide for maintenance and operating expense, depreciation, and a reasonable return upon the investment.

A public hearing in this matter was held at Torrance, before Examiner Williams, of which applicant's consumers were duly notified and given an opportunity to be present and to be heard.

Applicant's water supply is secured from The Dominguez Water Company, a mutual concern, and is distributed through approximately 146,800 feet of mains, ranging in size from one to sixteen inches in diameter. A booster pump increases the pressures for all classes of service except irrigation. There are approximately 455 domestic, 30 irrigation and 10 industrial consumers, practically all of whom are on metered services.

The present rates charged by applicant are as follows:

Monthly meter rates:

From 0 to 1999 cubic feet, per 100 cubic feet -----	\$0 10
From 2000 to 3999 cubic feet, per 100 cubic feet -----	00
From 4000 to 5999 cubic feet, per 100 cubic feet -----	08
From 6000 to 7999 cubic feet, per 100 cubic feet -----	07
From 8000 to 9999 cubic feet, per 100 cubic feet -----	06
Over 10,000 cubic feet, per 100 cubic feet -----	05
Farm and irrigation use, per 100 cubic feet -----	03

Monthly minimum charges:

$\frac{3}{4}$ or 1-inch meter -----	\$1 00
1-inch meter -----	1 50
1½-inch meter -----	2 50
2-inch meter -----	4 00
3-inch meter -----	9 00
4-inch meter -----	16 00
5-inch meter -----	25 00
6-inch meter -----	36 00

A few flat rate charges are in effect, ranging from \$1 per month upward.

Although the application herein sets forth a definite schedule of rates which it was desired to put into effect, this portion of the application was amended at the hearing and the Commission was asked to fix such rates as in its judgment were fair and reasonable for the service rendered.

Mr. H. P. Gillette, on behalf of the applicant, presented a report setting forth an estimated original cost of the property, amounting

to \$178,857, which amount included \$4,643 for tools, equipment and materials on hand; \$2,875 for organization expense; and \$2,500 for working capital.

Mr. J. G. Hunter, one of the Commission's hydraulic engineers, submitted a report showing an estimated original cost of the property, exclusive of tools, equipment, materials on hand, organization expense and working capital, of \$135,923. This report also showed a depreciation annuity, calculated by the sinking fund method, of \$1,873, and an estimate of reasonable maintenance and operating expense for the future, of \$18,800.

The principal difference in the two estimates of original cost of the property is due very largely to the higher costs of labor used by Mr. Gillette, which were based upon the cost of similar work outside this state and also upon the assumption that a considerable amount of hardpan was encountered in trench excavation. Testimony indicates, however, that the amount of material of this nature encountered during the construction of the pipe trenches was not so great as to materially increase the cost of the work.

A careful consideration of all the testimony presented, leads to the conclusion that \$145,000 is a reasonable estimate of original cost of the system for the purpose of this proceeding.

Annual charges, based upon the foregoing items, are as follows:

Return at 8 per cent upon \$145,000	\$11,600 00
Depreciation annuity	1,873 00
Maintenance and operating expense	18,800 00
Total	<u>\$32,273 00</u>

Revenues from the sale of water for 1920 were \$22,392, and for 1921 were \$23,564. Based upon the foregoing allowances for maintenance and operating expense and depreciation annuity, the revenues for 1921 show a return of 1.99 per cent upon a rate base of \$145,000, and it is apparent that the utility is entitled to an increase in rates. The schedule of rates established in the accompanying order is designed to do substantial justice to both the utility and the consumers and to produce sufficient revenue to cover maintenance and operating expense, depreciation annuity and a reasonable return upon the investment.

ORDER.

Torrance Water, Light and Power Company having made application as entitled above, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that the rates now charged by Torrance Water, Light and Power Company for water delivered to consumers in and in the vicinity of Torrance, Los Angeles County, are unjust and

unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that Torrance Water, Light and Power Company be and the same is hereby authorized and directed to file with this Commission, within twenty (20) days from the date of this order, the following schedule of rates to be charged consumers in and in the vicinity of Torrance, Los Angeles County, effective for all water delivered subsequent to April 1, 1922, or the meter reading period next preceding that date:

Monthly meter rates for domestic, industrial and municipal uses:

From 0 to 500 cubic feet, per 100 cubic feet -----	\$0 25
From 500 to 1000 cubic feet, per 100 cubic feet -----	20
From 1000 to 4000 cubic feet, per 100 cubic feet -----	15
From 4000 to 7000 cubic feet, per 100 cubic feet -----	10
From 7000 to 10,000 cubic feet, per 100 cubic feet -----	08
Over 10,000 cubic feet, per 100 cubic feet -----	06

Monthly meter rates for irrigation uses:

From 0 to 500 cubic feet, per 100 cubic feet -----	0 25
From 500 to 1000 cubic feet, per 100 cubic feet -----	20
From 1000 to 2000 cubic feet, per 100 cubic feet -----	15
Over 2000 cubic feet, per 100 cubic feet -----	05

Monthly minimum charges:

$\frac{1}{8}$ -inch meter -----	1 25
$\frac{3}{4}$ -inch meter -----	1 50
1 -inch meter -----	2 00
1 $\frac{1}{4}$ -inch meter -----	3 00
2 -inch meter -----	5 00
3 -inch meter -----	10 00
4 -inch meter -----	15 00
6 -inch meter -----	25 00

Municipal use:

Automatic sewer flushers, each, per month -----	1 25
Street sprinkling, per 100 cubic feet -----	15
Fire hydrants, each, per month -----	2 00
All other municipal uses at the meter rates.	

Monthly flat rates:

The flat rate schedule to remain as at present in effect for such uses as are not provided for in the foregoing schedules.

It is hereby further ordered, that Torrance Water, Light and Power Company be and the same is hereby directed to file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern relations with its consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this fourteenth day of March, 1922.

DECISION No. 10186.

IN THE MATTER OF THE APPLICATION OF J. H. STUBBE FOR PERMISSION TO DISCONTINUE SUPPLYING WATER THROUGH PRIVATE SYSTEM.

Application No. 7015.

Decided March 14, 1922.

SERVICE—ABANDONMENT OF—WATER UTILITY.—It appearing that the water plant owned by applicant is inadequate and that an alternative supply is available to consumers, it is held to be unreasonable to require continuance of service.

F. H. Bartlett, for Applicant.

ROWELL, Commissioner.

OPINION.

J. H. Stubbe, applicant herein, is a farmer and the owner of a pumping plant supplying water for domestic purposes to about twelve consumers in a subdivision known as Ravenswood, near Palo Alto, Santa Clara County. Applicant asks for authority to discontinue this service, alleging that the pumping plant is inadequate, having only sufficient capacity to supply the needs of his ranch.

A public hearing in this proceeding was held in Palo Alto, of which all of the consumers were duly notified and were given an opportunity to appear and to be heard.

The testimony shows that the system was installed by J. F. Parkinson to supply water to the Ravenswood subdivision. The project failed and the property was subsequently sold through a foreclosure proceeding. Applicant purchased twenty-five acres of the tract upon which are located the pumping plant, tank and well. The remaining portion of the area, consisting of about one hundred acres, upon which is located the distribution system, was purchased by Charles Weeks. This area was subdivided into acre tracts and has been practically all sold.

The testimony also shows that the water supply is not sufficient for applicant's needs and that the revenues derived from the sale of water do not even pay operating expenses. It was further shown that the installation of additional facilities would only increase the operating expenses, as almost all of the settlers in that area have their own wells for supplying water for domestic and irrigation purposes, and only a few take water from applicant's system for domestic purposes because of its softness.

A claim of ownership of the pipe line in the distribution system was made in behalf of Mrs. Parkinson. The testimony shows, however, and it was later verified by examination of the records, that the Ravenswood property was described by metes and bounds, when sold

in the foreclosure proceeding, and therefore included all the improvements. The record of this transaction disposes of Mrs. Parkinson's claims.

It was suggested by applicant that the pipe lines could be used by the four or five consumers not having wells, in obtaining water from neighbors who have wells and a surplus supply of water and who are willing to furnish service. As Mr. Weeks, who purchased the tract, waived ownership of the pipe lines in his testimony, this arrangement will provide a water supply to the consumers not having an independent source.

As it appears that the water plant owned by applicant is inadequate, and that the few consumers who have not an independent supply can be supplied by neighbors through the present pipe system, it would be unreasonable to require applicant to continue the service of water, and it also appears that the consumers without an independent supply should proceed to develop wells.

It is recommended that the application for discontinuance of service be granted on the conditions set out in the following order:

ORDER.

J. H. Stubbe having made application to this Commission for an order authorizing a discontinuance of water service to consumers in the area known as Ravenswood Subdivision, near Palo Alto, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that it would be unreasonable to require applicant to continue the operating of a public utility water system for the purpose of supplying these consumers.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the opinion which precedes this order;

It is hereby ordered; that J. H. Stubbe be and he is hereby authorized to discontinue service of water to consumers in the area known as Ravenswood Subdivision, near Palo Alto, such discontinuance to become effective when temporary service has been provided for such consumers as have no wells.

It is hereby further ordered, that final authorization for discontinuance shall be rendered by supplemental order of this Commission upon the filing of a certified statement that the required temporary service has been provided for all consumers not having an independent water supply.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourteenth day of March, 1922.

DECISION No. 10187.

IN THE MATTER OF THE APPLICATION OF C. W. KELLOGG, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY COVERING THE OPERATION OF A DOMESTIC WATER PLANT.

Application No. 7484.

Decided March 14, 1922.

CERTIFICATE—RATES—WATER UTILITY—INITIAL STAGES—FULL RETURN.—Held in the instant case that applicant can not expect for some time to receive a full return upon the investment as the project, for which a certificate of public convenience and necessity is granted, is in its initial stages, and it is declared it would be manifestly unfair to prevent consumers to compel them to pay full compensatory rates.

C. W. Kellogg, *in propria persona*.

BY THE COMMISSION.

OPINION.

The amended application in the above entitled proceeding asks for a certificate of public convenience and necessity covering the operation of a water system in Kellogg's Orange Acres, a tract of land located in the east one-half of section twenty-eight (28), township twenty-nine (29) south, range twenty-eight (28) east, Mount Diablo Base and Meridian, in Kern County, near Bakersfield.

A public hearing was held at Bakersfield, before Examiner Satterwhite. All interested parties were duly notified and were given an opportunity to be present and to be heard.

This water system was constructed in 1921 by applicant as an emergency measure, after the supply formerly furnished by another water system had proved inadequate. No other public utilities operate in this territory and the utility which previously supplied the tract with water has given its sanction for the construction and operation of applicant's system.

The rates charged for water furnished consumers are as follows:

Monthly meter rates:

From 0 to 4000 gallons, per 1000 gallons	\$0 25
From 4000 to 16,000 gallons, per 1000 gallons	20
Over 16,000 gallons, per 1000 gallons	12

Monthly minimum charges:

$\frac{5}{8}$ -inch meter	\$1 00
$\frac{3}{4}$ -inch meter	1 25
1-inch meter	1 75
1½-inch meter	2 50
3-inch meter	7 50
6-inch meter	15 00

The water system consists of a 12-inch well, 150 feet deep; a Sterling deep-well turbine pump driven by a 15-horsepower electric motor, automatically controlled; a 50,000-gallon capacity reinforced concrete storage tank; approximately 2900 feet of 3- and 4-inch distribution pipe lines; and 35 metered services. Twenty-eight consumers are now served, and the plant is capable of supplying approximately 180 consumers.

Mr. M. I. Reed, one of the Commission's hydraulic engineers, presented a report based upon an investigation of the system, which set forth the cost of the system as \$14,113. Depreciation annuity, computed by the sinking fund method, was shown as \$240. Operating expenses for the first five months the plant has been in operation were \$635, and revenues amounted to \$321.

It is apparent that for some time to come applicant cannot expect to receive a return upon the investment as the project is in its initial stages, and it would be manifestly unfair to the present few consumers to compel them to pay rates sufficiently high to achieve this result. The present rates charged by applicant are the same as those of other utilities operating in the vicinity and are fair and reasonable rates for the service rendered.

No one appeared in opposition to the application and it is apparent that a certificate of public convenience and necessity should be granted.

ORDER.

C. W. Kellogg having made application as entitled above, a public hearing having been held thereon, and the matter having been submitted:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation of a water system by C. W. Kellogg in Kellogg's Orange Acres, a tract of land located in the east one-half of section twenty-eight (28), township twenty-nine (29) south, range twenty-eight (28) east, Mount Diablo Base and Meridian, in Kern County, near Bakersfield:

It is hereby ordered, that C. W. Kellogg be and he is hereby authorized and directed to file with this Commission, within twenty (20) days of the date of this order, the following schedule of rates to be charged consumers in Kellogg's Orange Acres:

Monthly meter rates:

From 0 to 4000 gallons, per 1000 gallons	\$0 25
From 4000 to 16,000 gallons, per 1000 gallons	20
Over 16,000 gallons, per 1000 gallons	12

Monthly minimum charges:

8-inch meter	\$1 00
7-inch meter	1 25
6-inch meter	1 75
5-inch meter	2 50
4-inch meter	5 00
3-inch meter	7 50
2-inch meter	10 00
1-inch meter	15 00

It is hereby further ordered, that C. W. Kellogg be and he is hereby directed to file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern relations with consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this fourteenth day of March, 1922.

DECISION No. 10188.

IN THE MATTER OF THE APPLICATION OF BALDWIN PARK DOMESTIC WATER COMPANY FOR INCREASE OF RATES.

Application No. 6864.

Decided March 14, 1922.

RATES—WATER—DEVELOPMENT STAGE—ANNUAL CHARGES.—As the territory served is in its development stage, it is held that present consumers can not reasonably be expected to pay rates sufficiently high to produce the full amount of the annual charges.

S. M. Walker, for Applicant.

G. E. Alderson, for Baldwin Park Chamber of Commerce.

BY THE COMMISSION.

OPINION.

Baldwin Park Domestic Water Company, applicant in the above entitled proceeding, is engaged in the business of furnishing water for domestic, irrigation and industrial purposes in and in the vicinity of the unincorporated town of Baldwin Park, Los Angeles County.

The application alleges in effect that the present rates are not compensatory. The Commission is therefore asked to establish a schedule of rates which will provide sufficient revenue to yield a reasonable return upon the investment.

A public hearing in this matter was held before Examiner Williams at Baldwin Park. All of applicant's consumers were duly notified and were given an opportunity to be present and to be heard.

Applicant's water system consists of two 16-inch deep wells, equipped with modern and efficient electrical pumping equipment; a steel storage tank of 280,000 gallons capacity; approximately 88,800 feet of distribution pipe mains, ranging in size from 3-inch to 12 inches in diameter; and 368 service connections, of which 327 are in use and metered.

The rates now in effect were established by this Commission by Decision No. 6789, dated October 22, 1919, in Application No. 4585, entitled: *In the matter of the Application of Baldwin Park Domestic Water Company, asking permission for an increase in rates.*

The rates so established are as follows:

Monthly minimum charges:

½-inch meter -----	\$1 25
¾-inch meter -----	1 50
1-inch meter -----	1 75
1½-inch meter -----	2 00
2-inch meter -----	2 50
3-inch meter -----	3 00

Monthly meter rates:

From 0 to 500 cubic feet, per 100 cubic feet -----	\$0 25
From 500 to 1000 cubic feet, per 100 cubic feet -----	20
From 1000 to 2000 cubic feet, per 100 cubic feet -----	15
Over 2000 cubic feet, per 100 cubic feet -----	0425

A report by Wm. C. Kottelman and Company, certified public accountants, was submitted in evidence at the hearing. This report covered an audit and investigation of applicant's books and showed assets, as of January 31, 1921, of \$82,923. The report also sets forth the following statement of results of operation for the years 1919, 1920 and 1921:

	1919	1920	1921
Operating revenues -----	\$6,878 00	\$8,142 00	\$10,920 00
Operating expenses -----	6,646 00	8,562 00	9,234 00
Operating profit -----	\$232 00	*\$420 00	\$1,686 00
Less depreciation -----	600 00	1,008 00	2,049 00
Loss from ordinary operations -----	\$368 00	\$1,428 00	\$1,263 00
Interest paid -----	1,061 00	627 00	990 00
Loss from all sources -----	\$1,429 00	\$2,055 00	\$2,253 00

Mr. J. G. Hunter, one of the Commission's hydraulic engineers, submitted a report based upon an investigation of the system, which set forth an estimated original cost of the property amounting to \$79,809; depreciation annuity, computed by the sinking fund method, was given as \$1,695, and an estimate of reasonable maintenance and operating expense for the future of \$7,000.

Based upon the foregoing items annual charges would be as follows:

Return at 8 per cent upon \$79,800 -----	\$6,384 00
Depreciation annuity -----	1,695 00
Maintenance and operating expense -----	7,000 00
Total -----	\$15,079 00

Operating revenues for the year 1921 were \$10,920, and it would appear that an increase in rates is justified. However, a study of revenues for the past few years indicates that the utility's business is steadily increasing, and it is apparent that the territory served is in its development stage. It is therefore evident that present consumers cannot reasonably be expected to pay rates sufficiently high to produce

*Indicates an operating loss.

the full amount of the annual charges set out above. The rate schedule established in the accompanying order is designed to do substantial justice to both the consumer and the utility, and produce sufficient revenue to cover maintenance and operating expense, depreciation annuity, and a fair return upon a reasonable rate base.

ORDER.

Baldwin Park Domestic Water Company having made application as entitled above, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that the rates now charged by Baldwin Park Domestic Water Company for water delivered to consumers in and in the vicinity of Baldwin Park, Los Angeles County, are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that Baldwin Park Domestic Water Company be and the same is hereby authorized and directed to file with this Commission, within twenty (20) days from the date of this order, the following schedule of rates to be charged consumers, effective for all water delivered subsequent to March 31, 1922, or the meter reading period next preceding that date.

Monthly minimum charges:

3/4-inch meter	-----	\$1 25
1-inch meter	-----	1 50
1 1/2-inch meter	-----	2 00
2-inch meter	-----	2 50
2 1/2-inch meter	-----	3 00
3-inch meter	-----	5 00
4-inch meter	-----	10 00
6-inch meter	-----	15 00
12-inch Sentinel meter	-----	5 00

Monthly meter rates:

From 0 to 500 cubic feet, per 100 cubic feet	-----	\$0 30
From 500 to 1000 cubic feet, per 100 cubic feet	-----	25
From 1000 to 1500 cubic feet, per 100 cubic feet	-----	20
From 1500 to 2000 cubic feet, per 100 cubic feet	-----	15
From 2000 to 3000 cubic feet, per 100 cubic feet	-----	10
Over 3000 cubic feet, per 100 cubic feet	-----	06

It is hereby further ordered, that Baldwin Park Domestic Water Company be and the same is hereby directed to file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern relations with its consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this fourteenth day of March, 1922.

DECISION No. 10189.

IN THE MATTER OF THE APPLICATION OF HOME TELEPHONE COMPANY OF COVINA TO MODIFY YOUR DECISION NO. 8550, OUR APPLICATION NO. 6289; AND TO SELL FIFTY THOUSAND DOLLARS OF OUR BONDS FOR REFUNDING AND OTHER LEGAL PURPOSES, AND TO SELL AND TO ACQUIRE OPERATIVE PROPERTIES HEREIN DESCRIBED.

Application No. 7569.

Decided March 14, 1922.

F. H. Wright, for Applicant.

ROWELL, Commissioner.

OPINION.

Home Telephone Company of Covina asks the Railroad Commission to make an order authorizing the sale of properties and the issue and sale of \$104,000 of first and refunding mortgage 6 per cent bonds for the purpose of refunding indebtedness and acquiring and constructing new properties.

Home Telephone Company of Covina was organized in 1902. From reports filed with the Commission, it appears that the company has an authorized stock issue of \$200,000, divided into 4000 shares of \$50 each. As of December 31, 1921, stock in the amount of \$92,450 was reported outstanding. As of the same date, applicant reports \$134,700 of bonds outstanding. Applicant's bonded debt consists of \$38,700 of first mortgage 5 per cent bonds due July 1, 1923, and \$96,000 of first and refunding mortgage 6 per cent bonds due July 1, 1943.

The Railroad Commission by Decision No. 8550, dated January 17, 1921, in Application No. 6289 (Volume 19, Opinions and Orders of the Railroad Commission of California, p. 310) authorized applicant to issue and sell \$103,500 face value of 6 per cent first and refunding mortgage bonds. By the order of the Commission, the company was permitted to sell the bonds on or before December 31, 1921, at not less than 88½ per cent of their face value and accrued interest and use the proceeds for the following purposes:

To purchase and install switching equipment and reimburse the company's treasury on account of replacement of property, approximately	\$62,000 00
For real estate and buildings, approximately	5,000 00
For additional poles and cables, approximately	20,000 00
To reimburse applicant's treasury on account of earnings expended for plant extensions, additions and betterments, approximately	3,000 00

Of the \$103,500 of bonds, \$49,500 have been sold, leaving \$54,000 unsold. From the proceeds realized, applicant has expended \$20,501.34 pursuant to the order of the Commission and has on hand \$23,722.01. Applicant asks that the Commission's decision of January 17, 1921, be modified so as to permit it to sell the remaining \$54,000 of bonds on or before June 30, 1922, and to expend for real estate and buildings

approximately \$14,000 instead of \$6,000. The matter of granting the company additional time within which the \$54,000 of bonds may be sold will be covered by an order in Application No. 6289. The \$104,000 of bonds referred to in the first paragraph of this opinion includes the \$54,000. Inasmuch as the sale of the \$54,000 of bonds will be covered by an order in Application No. 6289, the order in this proceeding will authorize the issue and sale of \$50,000 of bonds and the use and disposition of the proceeds obtained from the sale of such bonds.

Applicant reports that it is necessary for it to build a new exchange building at Covina. The testimony shows that its present exchange facilities are inadequate and that it has entered into a contract for new exchange equipment. The proper housing of this equipment requires a larger building. The total cost of the building, together with the necessary warehouse and garage buildings, is estimated at \$13,500. Adding to this the cost of the lot, \$2,500, makes a total of \$16,000. Applicant believes that it can realize from the sale of its present exchange building, its warehouse building and lot \$8,000, leaving a balance of \$8,000 to be paid from the sale of bonds.

F. H. Wright, secretary of Home Telephone Company of Covina, reports that it is the intention of the company to sell its bonds through an investment banker. He does not believe that they can be sold locally. He is of the opinion that a better price can be obtained for the bonds if the lien of the company's first mortgage is released. The first mortgage bonds mature on July 1, 1923. The mortgage can be canceled if there is deposited with the trustee an amount sufficient to pay the bonds and accrued interest at maturity. The company does not intend to call the bonds for payment prior to maturity, but proposes to deposit with the trustee sufficient cash to permit the trustee to release the mortgage. Through the release of the first mortgage, the company's first and refunding mortgage will become a first lien on all of the company's properties.

I herewith submit the following form of order:

ORDER.

Home Telephone Company of Covina having requested the Railroad Commission to modify its order in Application No. 6289 and having requested permission to issue bonds and sell property, a public hearing having been held, and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the expenditures are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Home Telephone Company of Covina, be and it is hereby authorized to issue and sell, for cash, at not less than 87½ per cent of their face value and accrued interest \$50,000 of its first and refunding mortgage 6 per cent bonds payable July 1, 1943.

The authority herein granted is subject to further conditions as follows:

1. Of the proceeds realized from the sale of the bonds herein authorized not exceeding \$38,700, may be used for the purpose of paying or refunding \$38,700 of first mortgage 5 per cent bonds due July 1, 1923. The remainder of the proceeds shall be used by applicant for the purpose of paying in part the cost of acquiring and constructing the properties and buildings described in this application, said properties consisting of a lot, warehouse and exchange building.

2. Home Telephone Company of Covina shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

3. The authority herein granted will not become effective until applicant has paid the fee prescribed in section 57 of the Public Utilities Act, which fee amounts to \$50

4. The authority herein granted will apply only to such bonds as may be issued, sold and delivered on or before June 30, 1922.

It is hereby further ordered, that Home Telephone Company of Covina be and it is hereby authorized to sell its present Covina central office building and lot and its warehouse building and lot, provided said central office building and warehouse building to be replaced with a building or buildings of at least equal value and use to Home Telephone Company of Covina; and provided further, that possession of the present central office building and warehouse building be not relinquished until the new central office building and warehouse building are ready for use.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourteenth day of March, 1922.

DECISION No. 10193.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN POWER COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE AND SELL ONE MILLION DOLLARS OF SERIES "C" SIX PER CENT FIRST AND REFUNDING MORTGAGE BONDS.

Application No. 7581.

Decided March 14, 1922.

Guy C. Earl and Chaffee E. Hall, by Chaffee E. Hall, for Applicant.

BENEDICT, Commissioner.

OPINION.

In this application, Great Western Power Company of California asks permission to issue and sell at 94 per cent of their face value and accrued interest, \$1,000,000 of its Series "C" 6 per cent first and refunding mortgage bonds due February 1, 1952. The company proposes to use the proceeds to finance the cost of extensions, additions and betterments and to reimburse its treasury.

Applicant's outstanding interest bearing bonded indebtedness as of December 31, 1921, is reported as follows:

First and refunding 6 per cent bonds, series "A", due March 1, 1949	\$6,000,000 00
First and refunding 7 per cent bonds, series "B", due March 1, 1950	1,101,900 00
General mortgage convertible 8 per cent bonds, due August 1, 1930	4,898,100 00
General lien convertible 8 per cent bonds, due February 1, 1936	2,500,000 00
Convertible 6 per cent debentures, due November 1, 1925	4,177,600 00
Great Western Power Company 5 per cent bonds, due July 1, 1946	20,892,000 00
City Electric Company 5 per cent bonds, due July 1, 1937	1,457,000 00
Consolidated Electric Company 5 per cent bonds, due June 1, 1955	1,602,200 00
Central Oakland Light and Power Company 5 per cent bonds, due May 1, 1939	61,000 00
Consumers Light and Power Company 6 per cent bonds, due April 15, 1933	72,000 00
Total	\$42,761,800 00

In addition, \$7,398,100 of first and refunding bonds of Series "B" are deposited as collateral to secure in part the payment of the general mortgage convertible and general lien convertible bonds. As of the same date, December 31, 1921, applicant reports outstanding \$30,812,-684.21 of stock, consisting of \$27,500,000 of common and \$3,312,684.21 of 7 per cent preferred.

In general, applicant proposes to use the proceeds from the sale of the Series "C" bonds for the following purposes:

To reimburse its treasury on account of capital expenditures made prior to December 31, 1921	\$524,784 05
To reimburse its treasury for moneys expended in paying notes	271,505 80
To pay in part the cost of a new substation	143,710 15
Total	\$940,000 00

The petition shows that since September 1, 1921 and prior to December 31, 1921, applicant expended \$275,344.15 for construction work on its Caribou project and \$3,242.10 on its 160,000 volt transmission line from Caribou to Valona and since July 1, 1921, and prior to December 31, 1921, it expended \$246,197.80 for other additions and betterments. The sum of these three figures is \$524,784.05, which represents, according to testimony herein, uncapitalized construction expenditures made prior to December 31, 1921.

Applicant reports that prior to July 1, 1921, it executed six promissory notes to General Electric Company in the aggregate amount of \$271,505.80 to pay for material and equipment used in its construction work and that this amount has not been included in previous requests of applicant to issue securities. It appears that these notes, since December 31, 1921, have been paid and applicant accordingly requests that it be permitted to reimburse its treasury to the extent of \$271,505.80 for moneys expended in their payment.

The company reports that it proposes to construct at an estimated cost of \$880,562 a new high tension substation between Albany and Richmond, Contra Costa County, to be known as the Golden Gate substation. It asks permission to use \$143,710.15 of the proceeds from the sale of Series "C" bonds to pay in part the cost of this proposed construction.

The application shows that arrangements have been made for the sale of the \$1,000,000 of bonds to E. H. Rollins and Sons at 94 and accrued interest.

I herewith submit the following form of order:

ORDER.

Great Western Power Company of California having applied to the Railroad Commission for permission to issue and sell bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue and sale is reasonably required by applicant for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Great Western Power Company of California be and it is hereby authorized to issue and sell, on or before July 1, 1922, at not less than 94 per cent of face value plus accrued interest, \$1,000,000 of Series "C" first and refunding mortgage 6 per cent bonds due February 1, 1952, and use the proceeds from the sale of the bonds to reimburse its treasury and finance the cost of extensions, additions and betterments as reported in this application.

The authority herein granted is subject to further conditions as follows:

1. Applicant shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

2. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$1,000.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourteenth day of March, 1922.

DECISION No. 10202.

IN THE MATTER OF THE APPLICATION OF E. W. PETERSON FOR AUTHORITY TO INCREASE HIS RATES OF CHARGES FOR WATER, IN THE DISTRICT SERVED BY HIM, IN SAN DIEGO COUNTY, CALIFORNIA.

Application No. 7409.

Decided March 17, 1922.

E. W. Peterson, in propria persona.

Peter Mackenzie, in propria persona, and for W. W. Praul, George J. Nixon and others.

W. L. Moore, for A. F. Plowman and Eric Peterson.

BY THE COMMISSION.

OPINION.

E. W. Petersen, who owns and operates a water system serving approximately 130 consumers in Imperial Beach, South San Diego, Palm City, and vicinity, asks for authority to increase rates, alleging in effect that the present revenues are not sufficient to provide for maintenance and operating expense, depreciation, and a reasonable return upon the investment in the system.

A public hearing in this matter was held in San Diego, before Examiner Westover, of which all interested parties were notified and given an opportunity to be present and to be heard.

This water system consists of approximately 46,000 feet of distribution mains ranging in size from one and one-half to six inches in diameter and 140 services and meters. The entire water supply is secured by purchase from Coronado Water Company at wholesale rates through master meters.

The territory served consists of an area at the south end of San Diego Bay, extending from Palm City to Imperial Beach.

The present rates charged by applicant are as follows:

Minimum monthly charge for $\frac{1}{2}$ -inch meter or smaller.....	\$1 50
Minimum monthly charge for meters larger than $\frac{1}{2}$ -inch.....	2 50
For all water used, per 100 cubic feet.....	1125

The present rate charged by Coronado Water Company for water sold to the Peterson System is nine cents per 100 cubic feet, but effective April 1, 1922, this rate will be increased to \$0.2025. This increased rate for water purchased is 80 per cent in excess of the present rate charged for water delivered to consumers on the Peterson System.

A large portion of the pipe in this system has been donated to Mr. Peterson by real estate promoters and others, and for this part of the plant he does not claim a return.

D. H. Harroun, one of the Commission's hydraulic engineers, presented a report, prepared after an inspection of the property, which shows an estimated original cost of that portion of the system installed by Mr. Peterson amounting to \$2,952; also a depreciation annuity, calculated by the sinking fund method, of \$100. His estimated annual maintenance and operating expense for the future is \$4,416, including the cost of water purchased at the increased rate of \$0.2025 per 100 cubic feet.

Annual charges, based upon the foregoing items, are as follows:

Return at 8 per cent on \$2,952	\$236 00
Depreciation annuity	100 00
Maintenance and operating expense	4,416 00
Total.....	\$4,752 00

Revenues from the sale of water during the year 1921 were \$3,540, or \$876 less than the estimated maintenance and operating expense set out above, and it does not appear that any material increase in the number of consumers can be expected in the near future. It is therefore apparent that the utility is entitled to an increase in rates, and it is estimated that the schedule set out in the accompanying order will result in revenues which will do substantial justice to both the consumer and the utility.

Mr. Peterson testified that recent heavy rains had so increased the water supply of Coronado Water Company that pumping could now be depended upon to care for the requirements of its consumers, thereby permitting a material reduction in the amount purchased from the city of San Diego and effecting so great a saving in operating expenses

that the rates charged by Coronado Water Company for water delivered to Peterson, and established by this Commission in Decision No. 9948, dated December 29, 1921, could be very materially reduced. This reduction, it was claimed, would permit the establishment of a much lower rate to be paid by consumers on the Peterson System.

Attention is called to the fact that the decision fixing rates to be charged by Coronado Water Company contained the following statement:

Conditions of water supply on this system are so uncertain that the establishment of any schedule of rates can be regarded only as a temporary expedient and for this reason the Commission will keep in close touch with the situation, and, whenever justified, will make such further order as is proper in the premises.

Coronado Water Company was also ordered to file monthly statements with the Commission setting forth revenues, operating expenses and statistics of water production and deliveries so that the Commission could be at all times fully informed as to the situation.

Consumers on this system may rest assured, should it appear at any time that Coronado Water Company is receiving an exorbitant return for the service rendered, that this Commission will immediately institute proceedings upon its own motion and make such revisions of rate schedules as are justified by the findings.

ORDER.

E. W. Peterson having made application for authority to increase rates for water delivered to his consumers, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that the rates now charged by E. W. Peterson for water delivered to his consumers in Palm City, South San Diego, Imperial Beach, and vicinity, San Diego County, are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that E. W. Peterson be and he is hereby authorized and directed to file with this Commission, within twenty (20) days from the date of this order, and thereafter charge the following schedule of rates for water delivered to his consumers:

MONTHLY MINIMUM CHARGES.

$\frac{1}{2}$ -inch meter	-----	\$1 50
$\frac{3}{4}$ -inch meter	-----	1 75
1 -inch meter	-----	2 00
1 $\frac{1}{4}$ -inch meter	-----	2 50
2 -inch meter	-----	3 00
3 -inch meter	-----	4 00
4 -inch meter	-----	5 00

MONTHLY CHARGE FOR WATER DELIVERED.

From 0 to 30,000 cubic feet, per 100 cubic feet	\$0 28
Over 30,000 cubic feet, per 100 cubic feet	25

It is hereby further ordered, that E. W. Peterson be and he is hereby directed to file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern relations with his consumers, such rules and regulations to become effective upon their acceptance by the Commission.

It is hereby further ordered, that E. W. Peterson be and he is hereby directed to file with this Commission, on or before the last day of each month, a complete statement of operating expenses, revenues from the sale of water, the quantity of water purchased from Coronado Water Company, and the quantity of water sold to consumers during the preceding month.

Dated at San Francisco, California, this seventeenth day of March, 1922.

DECISION No. 10203.

IN THE MATTER OF THE APPLICATION OF POMONA VALLEY TELEPHONE AND TELEGRAPH UNION FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS.

Application No. 7533.

Decided March 17, 1922.

SECURITIES—TELEPHONE—DEPRECIATION—EARNINGS.—The practice of varying charges for depreciation with variations in earnings is declared to be questionable. Having expended money from its reserve for accrued depreciation for additions and betterments, money derived from bonds to replenish the fund must be used to pay the cost of replacing property or in any event must be kept in the business.

R. K. Pitzer, for Applicant.

ROWELL, Commissioner.

OPINION.

Pomona Valley Telephone and Telegraph Union, a corporation, asks permission to issue and sell at not less than 95 per cent of their face value and accrued interest \$100,000 of its six per cent first mortgage bonds payable March 1, 1938, and use the proceeds for the following purposes:

1.—To refund note to First National Bank	\$5,000 00
2.—To refund accounts payable	4,000 00
3.—To pay for extensions and improvements to provide for normal growth	25,000 00
4.—To pay for garage building and equipment on lot now owned by applicant	10,000 00
5.—To pay North Electric Company as per contract for switchboard equipment for Chino, Claremont, La Verne and San Dimas, about \$8,000 of which has been advanced from other funds	31,000 00
6.—To pay for reconstruction of lines now depreciated	25,000 00
Total	\$100,000 00

Applicant has an authorized stock issue of \$100,000 divided into 20,000 shares of \$5 each. All of this stock was issued, according to applicant's reports, at par or more. Pursuant to the authority granted by Decision No. 494, dated March 1, 1913 (Vol. 2, Opinions and Orders of the Railroad Commission of California, p. 272), the company issued \$100,000 of its 6 per cent bonds at par.

Applicant operates and conducts a telephone business in Pomona, Claremont, Chino, La Verne and San Dimas. It operates five switchboards and reports 6004 telephones in use.

Applicant's balance sheet, as of December 31, 1921, shows no accumulated surplus. It has apparently been following the questionable practice of varying its charges for depreciation with the variations in its earnings. If, after the payment of interest and dividends, any net earnings remained, such earnings were charged to depreciation and reported under operating expenses. During the past five years, applicant has included in its operating expenses on account of depreciation the sum of \$96,429.54. During the same period, it has charged against its reserve for accrued depreciation only the sum of \$5,171.98. Applicant has expended the money represented by its reserve for accrued depreciation for the payment of additions and betterments. It now needs funds to replace properties and the manner in which applicant proposes to replace the money heretofore invested in plant additions and betterments to its reserve for accrued depreciation is through the sale of bonds. It follows that the money thus returned to the reserve for accrued depreciation must be used to pay the cost of replacing property or in any event must be kept in applicant's business.

It appears from the testimony that applicant has entered into a contract with the North Electric Company for switchboard equipment for its Chino, Claremont, La Verne and San Dimas exchanges and that such equipment will cost applicant \$31,000. The testimony shows that it is necessary for applicant to construct a garage building. The cost of this building is estimated at \$10,000.

Carl H. Lorbeer, manager of Pomona Valley Telephone and Telegraph Union, testified that the company within the near future will have to expend \$25,000 for reconstructing its lines, and that from time to time an additional \$25,000 must be expended to extend and improve its service. It is not the intention of the company to sell all of its bonds forthwith, but to dispose of them as it may be in need of funds.

I herewith submit the following form of order:

ORDER.

Pomona Valley Telephone and Telegraph Union having applied to the Railroad Commission for permission to issue and sell \$100,000 of

bonds, a public hearing having been held, and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Pomona Valley Telephone and Telegraph Union be and it is hereby authorized to issue and sell at not less than 95 per cent of their face value and accrued interest \$100,000 of 6 per cent bonds due March 1, 1938.

The authority herein granted is subject to further conditions as follows:

1. Of the proceeds realized from the sale of the bonds, not exceeding \$31,000 may be used to pay the North Electric Company for switchboard equipment for applicant's Chino, Claremont, La Verne and San Dimas exchanges, or reimburse applicant's treasury on account of moneys expended to pay for such switchboard equipment. Proceeds in the amount of \$9,000 may be used to pay notes and accounts payable and approximately \$10,000 for the construction of a garage building and equipment. The remainder of the proceeds may be used by applicant to reimburse its treasury on account of earnings expended for plant additions and betterments, provided that all of such remaining proceeds be expended for reconstructing applicant's lines and extending and improving its service.

2. Pomona Valley Telephone and Telegraph Union shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

3. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee amounts to \$100.

4. The authority herein granted will apply only to such bonds as may be issued, sold and delivered on or before December 31, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventeenth day of March, 1922.

DECISION No. 10204.

IN THE MATTER OF THE APPLICATION OF H. T. HEMPSTEAD, J. V. A. WINSTANLEY AND N. F. RAWLINGS, COPARTNERS, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF THE SAN FRANCISCO-OAKLAND-LOS ANGELES TRANSPORTATION COMPANY, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE THROUGH AUTO STAGE SERVICE BETWEEN SAN FRANCISCO-OAKLAND AND LOS ANGELES VIA THE STATE HIGHWAY OVER DUBLIN CANYON, ALTAMONT PASS, SAN JOAQUIN VALLEY, RIDGE ROUTE AND THE SAN FERNANDO VALLEY.

Application No. 7290.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO AND LOS ANGELES RAPID TRANSIT COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE PASSENGER RENT AUTOMOBILE TOURING CAR SERVICE BETWEEN SAN FRANCISCO AND LOS ANGELES.

Application No. 7379.

Decided March 17, 1922.

CERTIFICATE—AUTO STAGES—PUBLIC CONVENIENCE AND NECESSITY, GAUGE OF.—It is held that the patronage of illegal operators is not the gauge by which public convenience and necessity should be measured.

CERTIFICATE—PUBLIC DESIRE—TYPE OF EQUIPMENT.—Testimony of witnesses who were passengers on test runs held not sufficient to justify a finding that the public desire is for transportation in factory built stock cars in preference to the regular stage type.

CERTIFICATE—OWNER-DRIVER—SAFETY REGULATIONS.—The contention that owner-drivers would afford passengers greater care and consideration on a sixteen-hour trip is not upheld, as under the safety regulations of the Commission no driver of a passenger stage is permitted to operate as a driver in excess of ten hours in any twenty-four-hour period.

CERTIFICATE—EXISTING CARRIERS—NEW BUSINESS.—Where there is substantial evidence that existing carriers are able satisfactorily to handle a larger volume of patronage than is offered and the proposed service will not develop any new business, showing for the issuance of a certificate has not been made.

CERTIFICATE—DESIRE TO ENTER BUSINESS.—A desire on the part of applicant to enter the business of common carrier is held not a justification for the granting of a certificate.

H. W. Kidd and F. D. Howell, for Motor Transit Company, Protestant.

H. W. Kidd and DeLancey C. Smith, for Valley Transit Company, Protestant.

H. C. Folsom and F. D. Howell, for Motor Carriers Association, Protestant.

H. C. Folsom, for Pickwick Stages, Northern Division, Incorporated, Protestant.

Sanborn and Rochl and De Lancey C. Smith, by *De Lancey C. Smith*, for California Transit Company, Protestant.

H. C. Booth, J. E. Lyons and F. B. Austin, for Southern Pacific Company, Protestant.

Platt Kent and G. W. Lupton, for the Atchison, Topeka and Santa Fe Railway Company, Protestant.

R. B. Crowder, for Los Angeles and San Francisco Steamship Company, Protestant.

B. J. Wilson, for Order of Railway Conductors, Protestant.

J. R. Dorsey, for San Francisco-Oakland-Los Angeles Transportation Company, Protestant.

Jos. A. Brown and Frank W. Allender, for San Francisco and Los Angeles Rapid Transit Company, Protestant.

Jos. A. Brown, for The Rent Drivers Association, Protestant.

BY THE COMMISSION.

OPINION.

H. T. Hempstead, J. V. A. Winstanley and N. F. Rawlings, as copartners doing business under the firm name and style of San Francisco-Oakland-Los Angeles Transportation Company, have petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by them of an automobile stage line as a common carrier of passengers between San Francisco-Oakland and Los Angeles.

San Francisco and Los Angeles Rapid Transit Company, a corporation, have petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by it of an automobile stage line as a common carrier of passengers between San Francisco and Los Angeles.

Public hearings on the above entitled applications were conducted by Examiner Handford at San Francisco, at which time the matters were consolidated for the purpose of receiving evidence and for decision, the matters were duly submitted and are now ready for decision.

Applicants, Hempstead, Winstanley and Rawlings, propose to charge a rate between terminals of \$12.96; to operate two round trips daily, leaving each terminal at 7.00 a.m. and 4.00 p.m. and completing the trip in fifteen and one-half hours; using as equipment eight passenger touring cars of either Packard or Pierce-Arrow manufacture. This applicant relies as justification for the granting of the desired certificate upon the alleged facts that there is no through auto stage line between and over the San Joaquin Valley route between San Francisco-Oakland and Los Angeles and that the rate proposed to be charged is less than that charged by the rail carrier operating between the termini and over the general route proposed to be served by these applicants.

Applicant, San Francisco and Los Angeles Rapid Transit Company, proposes to charge a rate of \$12.50 between San Francisco and Los Angeles, to operate on a schedule of one round trip daily consuming sixteen and one-half hours for the trip, using as equipment twelve nine-passenger Packard automobiles. This applicant relies as justification for the granting of the desired application upon alleged fact that the particular form of transportation offered is one not now afforded by the present stage lines and that there is a great demand for same; that the present stage lines operated on the proposed route render a slower service which necessitates an intermediate stop overnight at some point between the terminals of San Francisco and Los Angeles; that the changes required result in an exorbitant loss of time; that the equipment now in use by present operative stage lines consists of

a truck motor and chassis with passenger body built thereon, also touring cars which have been changed from the original factory design by reconstructing the cars, extending the wheel base and constructing passenger bodies thereon. Applicant further alleges that the standard factory built models of equipment proposed to be used are more desirable for the traveling public and that by the use of such equipment and through operation that considerable time will be saved for the public and as an additional measure of public safety that the directors, officials and stockholders of the applicant corporation will personally drive and conduct the stages proposed to be operated, thereby eliminating risk and insuring greater care and safety for the traveling public than that alleged to be afforded by hired drivers and employees of existing operative stage lines.

Neither of the above applicants propose to do any intermediate business between the terminals of San Francisco-Oakland and Los Angeles the applications herein covering only the through service between such points.

Five witnesses for applicant, San Francisco and Los Angeles Rapid Transit Company, testified as to a trial or test run made from Los Angeles to San Francisco in the type of Packard touring cars proposed to be used by this applicant and that the trip was made, with one driver, in a total time of sixteen hours and twenty-two minutes including time for meals at points en route. These witnesses further testified that the trip was made in comfort and that at no time was the speed of the cars in excess of that permissible by statutory law.

Witnesses for both applicants testified as to their opinion of the volume of traffic offering for stage transportation between San Francisco-Oakland and Los Angeles, such opinion evidently being largely based upon the activities of certain unauthorized stage operators over the territory herein sought and an estimate of the probable number of passengers so transported, which estimate is apparently based on the number of cars which have been operated illegally, shows from one thousand to twelve hundred persons per month as having been transported in the cars of illegal operators which appears to be the best opinion available on the volume of traffic not now cared for by authorized stage lines, rail or steamer transportation. Three representatives of hotels in San Francisco testified as to inquiries received for stage transportation from San Francisco to Los Angeles. One employed at the Fairmont Hotel testified as to approximately twelve inquiries in a period of six months; another employed at the Gordon Hotel testified as to five or six inquiries brought to his notice monthly; another, the proprietor of the Continental Hotel, that inquiries averaged from two

or three to three or four per day. There is no other evidence before the Commission in these proceedings indicating a desire on the part of the public proposed to be served for the specific character of service offered by applicants herein. Evidence was received from witnesses interested in the partnership and the other applicant corporation as to the financial ability of both applicants and the tentative arrangements which had been made for the securing and financing of equipment necessary in the proposed operation; and also as to alleged inadequacy as to type of equipment now operated by authorized stage lines between Los Angeles and San Francisco. The evidence as to condition of equipment is not convincing as to its being uncomfortable, unsafe or in any other manner inadequate particularly when not supported by complaint on behalf of the public regularly using same.

The granting of this application is protested by the Southern Pacific Company, the Atchison, Topeka and Santa Fe Railway Company, Los Angeles and San Francisco Steamship Company, Motor Transit Company, Valley Transit Company, Motor Carriers Association, Pickwick Stages, Northern Division, Incorporated, and California Transit Company; also by Mr. B. J. Wilson, representing the Order of Railway Conductors. Each applicant also appears as a protestant against the granting of the other applications.

Mr. E. E. Wade, Assistant General Passenger Agent of the Southern Pacific Company, testified as to the service and facilities available for the transportation of passengers via the rail lines of his company and presented an exhibit showing seven round trips daily, three via the San Joaquin Valley Route and four via the Coast Route. This protestant advertises extensively throughout the State of California and also directly and by means of its affiliation with other railroads throughout the country attempts to develop tourist and other traffic for California points and in consideration of such expenditures believes that the rail lines should be used by tourists and others between points in California, the service and facilities of this protestant are capable of extension to meet practically any reasonable demand for transportation between points covered by this application.

Protestant, Motor Transit Company, operates nine schedules each way between Bakersfield, Taft and Los Angeles, such schedules connecting at Bakersfield with the stage line operated by the Valley Transit Company. One round trip schedule, operating over the line of this protestant, is a portion of a through schedule between Los Angeles and Oakland-San Francisco which schedule operates through between the terminals in one day. This protestant claims ample facilities for the handling of all passenger traffic which may be offered between Los

Angeles and Bakersfield or such as may be intended for movement between Los Angeles and Oakland-San Francisco via the line of this protestant and other stage lines connecting therewith, also protestants in these proceedings. An exhibit filed by this protestant shows the following traffic data for the months outlined, said months being considered by the protestant as representative months:

Month, 1921	Direction	Seats available	Origin or destination of passengers			Vacant seats
			Bakersfield	S. Francisco- Oakland	Other points	
July	Northbound -----	3,406	2,015	120	712	539
July	Southbound -----	3,419	1,936	54	754	675
October	Northbound -----	2,701	1,418	71	1,320	739
October	Southbound -----	2,705	1,318	50	719	618

Mr. J. C. Walling, President of the Valley Transit Company, protestant, testified as to traffic conditions existing on the portion of the through route served by his company in covering the territory between Merced and Bakersfield; that his company had adequate facilities to care for the existing traffic and such through traffic as might offer for movement between the termini proposed by applicants and as regards its movement over the lines of this protestant as a portion of the through route, San Francisco-Oakland to Los Angeles. An exhibit presented on behalf of this protestant shows the following general results for the months of July and October, 1921, such months being considered by this protestant as fairly representative of the general traffic conditions.

Month, 1921	Direction	Seats available	Passengers carried	Vacant seats
July	Northbound leaving Bakersfield-----	3,436	1,929	1,411
July	Northbound leaving Fresno-----	6,474	4,578	1,899
July	Southbound leaving Merced-----	5,587	3,144	2,451
July	Southbound leaving Fresno-----	3,317	1,531	1,772
October	Northbound leaving Bakersfield-----	2,840	1,545	1,298
October	Northbound leaving Fresno-----	5,999	4,137	1,875
October	Southbound leaving Merced-----	5,034	2,479	2,558
October	Southbound leaving Fresno-----	2,849	1,532	1,319

Mr. W. E. Travis, President of California Transit Company, protestant, testified that his company operated, among other routes, one between Merced and Oakland which is directly competitive with the routes proposed by applicants herein and which is used as a portion of the through route between San Francisco-Oakland and Los Angeles now operated by the protesting stage lines forming the through San Francisco-Los Angeles service via the San Joaquin Valley route. The California Transit Company owns and operates ninety cars of which

about forty are required to care for advertised schedules and to meet normal conditions of traffic. This protestant has a considerable excess of available equipment with which to meet any unusual or abnormal demands of traffic and is apparently well prepared to care for additional business should such be offered. Extracts from an exhibit filed on behalf of this protestant show the following:

Month, 1921	Direction	Available seats	Passengers carried	Vacant seats	District
July	Northbound -----	7,862	5,533	2,329	Merced-Manteca
July	Northbound -----	8,616	6,016	2,600	Manteca-Oakland
July	Southbound -----	6,734	4,774	1,990	Oakland-Manteca
July	Southbound -----	6,114	2,474	3,640	Manteca-Merced
October	Northbound -----	5,802	3,716	2,086	Merced-Manteca
October	Northbound -----	5,802	3,758	2,044	Manteca-Oakland
October	Southbound -----	4,554	2,822	1,732	Oakland-Manteca
October	Southbound -----	4,484	1,807	2,677	Manteca-Merced

Mr. Charles F. Wren, President and General Manager, Pickwick Stages, Northern Division, Incorporated, protestant, testified as to the operation conducted by his company between Los Angeles and San Francisco via the Coast Route. This protestant operates a so-called Limited Service between Los Angeles and San Francisco leaving Los Angeles at 7.45 a.m. and arriving San Francisco 12.59 a.m.; leaving San Francisco 7.30 a.m. and arriving Los Angeles 12.55 a.m. In addition to the so-called Limited Service this protestant operates two daily schedules from Los Angeles which provide for an over-night stop at San Luis Obispo continuing to destination the following day; also three schedules leaving Los Angeles daily with over-night stop-over at Santa Barbara continuing to destination the following day. One schedule leaving San Francisco daily with over-night stop-over at San Luis Obispo. Two schedules leaving San Francisco daily with over-night stop-over at Salinas continuing to destination the following day. This protestant claims to be financially able and willing to furnish all additional schedules or service that may be demanded by the requirements of traffic or the public desiring stage service between Los Angeles and San Francisco via the Coast Route. Abstracts from a statement filed as an exhibit by this protestant show the following data:

Month, 1921	Direction	Available seats	Passengers to or from		Vacant seats
			San Francisco- Oakland	Other points	
July	Northbound -----	5,563	324	2,692	637
October	Northbound -----	3,447	151	1,958	1,338
July	Southbound -----	1,917	418	646	853
October	Southbound -----	2,141	274	494	1,373

Mr. R. V. Crowder, a witness for Los Angeles Steamship Company, protestant, testified that his company operating the steamers "Yale" and "Harvard" has ample accommodations to care for all traffic offering for steamer transportation between San Francisco and Los Angeles, such trip requiring eighteen hours between San Francisco and Wilmington (the point on Los Angeles harbor reached by these steamers).

The Commission has given careful consideration to all the testimony and numerous exhibits presented in these proceedings. There is before us in these matters evidence indicating a sincere desire on the part of both applicants to enter the business of common carriers of passengers between San Francisco-Oakland and Los Angeles on the basis of through business only and offering to carry passengers between terminals with no stop-over other than is required for meals. The alleged advantage of the service proposed by both applicants is the use of standard touring cars of factory design as against the character of equipment which has been developed by the older stage lines to meet the demands of the traveling public and the necessities for economical and consistent operations. The volume of the demand alleged to exist for transportation of the character proposed by applicants is measured by the number of persons alleged to have patronized illegal operators between the termini herein proposed to be served by applicants. In our opinion such estimated figures are not the gauge by which public convenience and necessity should be measured, there being evidence that reductions in rates and active personal and employed solicitation were the basis upon which much of the traffic handled by the illegal operators was secured. Contentions of applicants as to a desire on behalf of the public for transportation in cars of factory built stock design have not been sustained by the evidence herein, the fact that test runs were made between Los Angeles and San Francisco, and that witnesses who were passengers on such test runs were of the opinion that a satisfactory and comfortable ride was enjoyed, is not evidence justifying this Commission in a declaration that public convenience and necessity requires the establishment of additional stage service between San Francisco-Oakland and Los Angeles. None of the witnesses, passengers on the test runs, had any experience as passengers on the type of equipment operated between Los Angeles and San Francisco, either on the through service or on the lines of protestants herein whose lines constitute portions of the through service between the termini herein proposed and via the San Joaquin Valley route.

The contentions of applicants as to the care and consideration that will be accorded prospective patrons in the event of the granting of

these applications by reason of members of the partnership and applicant corporation acting as drivers and operators could hardly be borne out to the extent claimed for the reason that under the operating rules and safety regulations of the Railroad Commission no driver of a stage carrying passengers is permitted to operate as a driver in excess of ten hours in any twenty-four hour period and the observance of such safety regulation necessarily requires that at least two drivers be employed over the route herein applied for. There is substantial evidence before us as to the ability of existing authorized carriers, rail, steamer and stage, to satisfactorily handle a far greater volume of patronage than is at present offered by the public in response to the published schedules and service now available. There is no evidence that indicates that any new business would be created by the authorization of the lines herein proposed. The allegations of applicants that the substantial portion of the public desires transportation between the termini proposed in standard automobiles of Packard manufacture have not been sustained and such demand on the part of the public would require material and substantial evidence for the reason that the particular desire of a limited portion of the public for the use of specific types of equipment, if considered as a material element in the determination of the question of public convenience and necessity, would result in practically every type of standard equipment and the various classes of such types, such as sedans, limousines, etc., being presented as valid reasons for the issuance of a certificate of public convenience and necessity for the operation of stage lines under the provisions of the statutory law and the authority conferred by such statutory law on the Railroad Commission. We must necessarily consider these applications on their broader aspect as to the public convenience and necessity to be served and the Commission cannot, in the absence of competent evidence, issue a certificate of public convenience and necessity for the operation of a passenger stage line upon the unsupported desire of applicants to meet an alleged condition based upon dissatisfaction claimed to exist on the part of a portion of the public who might desire transportation in some particular class of equipment. There is before the Commission in this proceeding evidence of an active desire on the part of both applicants to enter the business of a common carrier over the route between the termini as hereinabove set forth. Such desire, however, is not a justification for the granting of a certificate of public convenience and necessity and the applications, therefore, must be denied.

ORDER.

Public hearings having been held in the above entitled proceedings, the matters having been duly submitted and now ready for decision:

The Railroad Commission hereby declares, that public convenience and necessity do not require the operation by H. T. Hempstead, J. V. A. Winstanley and N. F. Rawlings, copartners doing business under the firm name and style of San Francisco-Oakland-Los Angeles Transportation Company, and San Francisco and Los Angeles Rapid Transit Company, or either of them, of an automobile stage line as a common carrier of through passengers between Los Angeles and San Francisco-Oakland, and

It is hereby ordered, that these applications be and they hereby are denied.

Dated at San Francisco, California, this seventeenth day of March, 1922.

DECISION No. 10212.

- IN THE MATTER OF THE APPLICATION OF POSTAL TELEGRAPH-CABLE COMPANY FOR AUTHORITY TO CLOSE ITS OFFICE AT SELMA, AS OF JULY 20, 1921.
- IN THE MATTER OF THE APPLICATION OF POSTAL TELEGRAPH-CABLE COMPANY FOR AUTHORITY TO OPEN TELEGRAPH OFFICE AT MERCED, AS OF MAY 21, 1921.
- IN THE MATTER OF THE APPLICATION OF POSTAL TELEGRAPH-CABLE COMPANY FOR AUTHORITY TO OPEN TEMPORARY TELEGRAPH OFFICE IN LODI, AS OF AUGUST 3, 1921.
- IN THE MATTER OF THE APPLICATION OF POSTAL TELEGRAPH-CABLE COMPANY TO OPEN TEMPORARY TELEGRAPH OFFICE IN TURLOCK, AS OF JULY 18, 1921.
- IN THE MATTER OF THE APPLICATION OF POSTAL TELEGRAPH-CABLE COMPANY TO OPEN TELEGRAPH OFFICE AT FILLMORE.

Application No. 7218.

Decided March 21, 1922.

SERVICE—TELEGRAPH COMPANY—AUTHORIZATION.—It is held that authority of the Commission is required by a telegraph utility to establish or abandon service.

A. B. Richards, for Applicant.

A. H. May and E. B. Harrington, for Western Union Telegraph Company.

BY THE COMMISSION.

OPINION.

A public hearing was held by Examiner Westover at San Francisco upon the above entitled application. Applicant now wishes authority to close its offices at Merced and Selma, which were, in fact, closed May 21st and July 20th, last; to procure authority for offices established at Lodi, August 3d, last, and at Turlock, July 18th, last; and preliminary authority to open an office at Fillmore, Ventura County.

It appears from the testimony that offices at Selma, Merced, Lodi, and Turlock were opened without authority of the Commission and without knowledge of the fact that the law requires previous authority from the Railroad Commission before opening or closing telegraph offices.

A circular letter which was sent out by Postal Telegraph-Cable Company, referring to the withdrawal of service at Red Bluff, California, having come to the notice of the Railroad Commission and, the telegraph company not having applied to the Commission for authority to abandon service, the company's attention was directed to the necessity for obtaining authorization before establishing service in territory not previously served by it and before abandoning service in any portion of the territory served by it. The Commission at the same time called upon the company for a list of all offices which it may have established, if any, and all offices which it may have discontinued, if any, within this state on and after August 1, 1919. The company thereupon advised the Commission that it was not aware of the necessity for obtaining the Commission's authorization in such cases and that various offices had been opened and closed without such authorization, as follows:

Hanford, California, closed, March 31, 1920.
Hanford, California, reopened, July 26, 1921.
Lodi, California, opened, August 3, 1921.
Merced, California, opened, May 1, 1921.
Turlock, California, opened, July 18, 1921.
Selma, California, closed, July 20, 1921.

The application herein was accordingly filed, asking for an order formally authorizing these various transactions, except as to Hanford, and asking also for a certificate of public convenience and necessity authorizing the establishment of service at Fillmore.

The occasion for now closing the office at Merced is the recent expiration of applicant's contract with the Atchison, Topeka and Santa Fe Railway Company, under which the two companies joined in the expense of maintaining the telegraph line, and the railway company operated the line, transmitting the telegraph company's commercial messages in return for a share of the tolls. This service is now being rendered to the public by the Western Union Telegraph Company, which maintains with the railway company a joint office at the Santa Fe station in Merced. It also maintains an uptown office in Merced and a joint office with the Southern Pacific Company at the latter's railway station in Merced.

The Western Union Telegraph Company maintains offices and furnishes adequate service at each of the five towns named, but it offers no objection to applicant maintaining permanent offices in the same

towns. It does object, however, to the establishment of temporary offices to be operated during the busy season only, such as was done to accommodate grape and melon buyers during the seasons at Lodi and Turlock, respectively.

Applicant made no showing of public necessity or convenience which would be served by opening an office at Fillmore, and stated that if it were necessary to make such showing or even to procure a petition signed by residents, it did not care to establish the service there.

Applicant showed only a desire to render the proposed service, and that there is no objection on the part of the utility now serving the community. This does not constitute a showing of public need for the service proposed, and the application for authority to serve Fillmore will be denied.

ORDER.

A public hearing having been held upon the above entitled application, the matter being submitted and now ready for decision;

It is hereby ordered, that Postal Telegraph-Cable Company be and it is hereby authorized and empowered to close its offices at Selma and at Merced, and to cease telegraph service to and from those towns.

It is hereby further ordered, that Postal Telegraph-Cable Company be and it is hereby authorized and empowered to open telegraph offices at Lodi and at Turlock and to furnish and maintain service for transmitting telegraphic messages to and from Lodi and Turlock.

The Railroad Commission hereby declares that public necessity and convenience do not require that Postal Telegraph-Cable Company transmit telegraphic messages to or from Fillmore, Ventura County.

It is hereby further ordered, that the above entitled application, in so far as it relates to authority to open a telegraph office at Fillmore, be and it is hereby denied.

Dated at San Francisco, California, this twenty-first day of March, 1922.

DECISION No. 10215.

ROSENBERG BROTHERS AND COMPANY ET AL.

vs.

SOUTHERN PACIFIC COMPANY ET AL.

Case No. 1585.

Decided March 21, 1922.

RATES--RAILROAD--REPARATION--GOVERNMENT CONTROL.—The Commission reiterates its position that reparation should not be awarded on adjustments of rates effective by mandate of governmental power during a period when the railroads were operated by the government as a war emergency measure.

RATES—INCREASES AND DECREASES—REPARATION.—As under a general adjustment of all rates on a particular commodity to a reasonable basis, carriers are not permitted to make any resultant increases retroactive, it is held that reparation should not be granted on decreases unless the evidence clearly shows justification therefor.

E. W. Hollingsworth and Bishop and Bakler, for Complainants.
Charles R. Detrick, for Sacramento Northern Railroad.
Elmer Westlake, for Southern Pacific Company.

LOVELAND, Commissioner.

OPINION.

This is a proceeding for reparation claimed by Rosenberg Brothers and Company et al. on account of alleged unjust and unreasonable rates on shipments of paddy rice moved over the lines of the defendants during the period January 1, 1917, to April 16, 1921.

A similar proceeding was instituted by the same complainants before the Interstate Commerce Commission and the records in that proceeding, including the transcript, exhibits, examiner's report, complainants' brief, complainants' exceptions to examiner's report and the defendants' brief, were offered in evidence in this proceeding; it was further stipulated by both the complainants and the defendants that the records in Cases Nos. 1432 and 1437, Decision No. 8517, before this Commission would also be considered in evidence in so far as their materiality would warrant.

The complainants offered in evidence the correspondence between the carriers and complainants relating to the subject matter of this complaint, also an exhibit comparing class rates between Memphis, Tennessee, and points in Arkansas with rates between Sacramento, California, and Lovelock, Nevada, both schedules prescribed by the Interstate Commerce Commission. The purpose of the above exhibit, complainants explained, was to show that at least in these cases the Interstate Commerce Commission considered that traffic conditions prevailing between California and Nevada were better and less arduous and, therefore, less rates should apply than for equidistant points between Memphis and Arkansas.

The complaint in this proceeding was filed April 16, 1921, and it was stipulated by counsel for both sides that no consideration should be given to movements prior to April 16, 1919.

During the period December 31, 1917, and March 1, 1920, the railroads were under government control and state commissions had no jurisdiction over government controlled lines. Effective March 1, 1920, the railroads were turned back to their owners, under Transportation Act 1920, which provided a transitory period from March 1, 1920, to September 1, 1920, during which the government guaranty to the carriers prevailed and under the law no reductions could be made in the

rates of any of these carriers during that time without permission from the Interstate Commerce Commission.

Early in 1920 the rice growers and millers, some of whom are parties to this proceeding, made complaint against the paddy rice rates, in Cases 1432 and 1437, the records of which cases were stipulated into this case. Hearings were held and by this Commission's Decision No. 8517 paddy rice rates were prescribed not to exceed 125 per cent of the grain rates and the carriers, defendants in the above proceedings, published the prescribed rates effective February 5, 1921. This general adjustment of rates on paddy rice resulted in decreased rates in some instances and in increased rates in other instances. From December 31, 1917, to September 1, 1920, this Commission had no jurisdiction to reduce any of the rates referred to except in cases where joint rates applied over two or more lines and one of such lines was not under federal control. However, all of the defendant carriers in this case, whether under government control or not, took advantage of the increases in rates authorized by the Director General of Railroads and by this Commission in its Decision No. 7983 following the Interstate Commerce Commission's decision in *ex parte* 74

This Commission has heretofore stated its belief that reparation should not be awarded on adjustments such as are involved here on rates effective by mandate of governmental power and during a period when the railroads were operated by the government as a war emergency measure.

The paddy rice rates fixed and prescribed by this Commission's Decisions Nos. 7983 and 8517 applied to all of the defendants and at practically every rice-shipping point throughout the entire state. Under a general adjustment of all rates on a particular commodity to a reasonable basis, as was done by Decision No. 8517, carriers are not permitted to make any resultant increases as to certain rates retroactive. For similar reasons reparation should not be allowed on resultant decreased rates unless the evidence clearly shows justification therefor.

No evidence was offered indicating that complainants had suffered any damage, beyond having paid a higher rate during a certain period than they were required to pay at a later date.

Under the circumstances and conditions noted above, I believe a sufficient showing has not been made to warrant the conclusion that reparation should be awarded, therefore I recommend that reparation be denied and the complaint dismissed.

ORDER.

It is hereby ordered, that the complaint in this proceeding should be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-first day of March, 1922.

DECISION No. 10216.

IN THE MATTER OF THE APPLICATION OF SISKIYOU TELEPHONE COMPANY FOR AUTHORIZATION TO RAISE EXCHANGE RATES AND TOLL RATES AND ADJUST THE SAME.

Application No. 5499.

Decided March 21, 1922.

RATES—TELEPHONE DISCRIMINATION.—Nonenforcement of time limit and over-time rates on toll messages held to be discrimination as to users.

RATES—SERVICE—CONNECTIONS.—Identical rates regardless of number of subscribers served from each subscriber's line ordered revised. Condition ordered corrected by applying rates commensurate with the class of service actually in use.

RATES, SPECIAL—UNLIMITED SWITCHING—DISCRIMINATION.—Special rates entitling certain subscribers to unlimited switching between exchanges without payment of tolls held to be special privileges, not uniformly held out to all subscribers and hence discriminatory.

RATES—TERRITORY SERVED—FAIR RETURN.—Owing to the mountainous and sparsely settled character of the territory served, it is held that rates to produce a full return would be higher than ordinarily required and higher than present service conditions justify.

Taylor and Tebbe, by *R. S. Taylor*, for Applicant.

J. W. Martin and E. J. Gribble, for certain people from Scott Bar to Happy Camp. Protestants.

BY THE COMMISSION.

OPINION.

The applicant in this proceeding, Siskiyou Telephone Company, is a public utility corporation, owning and operating a system of local telephone exchanges and exchange and toll lines in Siskiyou County. Its principal office is in Etna Mills. From Etna Mills its principal lines extend in a southwesterly direction to Sawyers Bar, Forks of Salmon, Gilta and intermediate points; from Etna Mills in a southeasterly direction to Callahan; in a northeasterly direction through Fort Jones and intermediate points to Yreka and from Yreka northwesterly along the Klamath River through Whites, Hamburg and intermediate points to Happy Camp. At Yreka its lines connect with the long distance toll system of The Pacific Telephone and Telegraph Company for communication between points on its lines and points throughout that company's system and connecting lines. At various points on its systems its lines also connect with government lines owned and operated by the Forest Service.

In its application applicant sets forth that the present rates, both for exchange and toll service, are not sufficient to meet operating expenses and permit any return upon investment and asks authority to double its exchange rates and to increase its toll rates by 50 per cent.

A public hearing was held before Examiner Satterwhite in Etna Mills on May 26, 1920. Applicant was not fully prepared at the hearing to present to the Commission sufficient information either in the form of exhibits or otherwise with reference to revenues, expenses, investment and other matters as would enable the Commission to pass upon the various questions involved in the application. It was accordingly necessary and it was agreed that further information and data would be submitted subsequent to the hearing and the matter was thus submitted. The presentation of the further data referred to, as will appear later, has necessitated further extensive investigation and analysis by the engineers of the Commission, resulting in delay in disposing of the case. These matters have since been disposed of and the case is now ready for decision.

Applicant's local exchanges are located in Etna Mills, Fort Jones, Greenview, Sawyers Bar, Hamburg, Happy Camp and Whites. The present monthly rates for exchange service, the service at these rates being limited to the local exchange in each case, are as follows:

HAMBURG AND HAPPY CAMP EXCHANGES.

Party lines -----\$1 66 per month

ETNA MILLS, FORT JONES, SAWYERS' AND GREENVIEW EXCHANGES.

Business, party lines -----\$1 50 per month
 Residence, party lines -----1 00 per month
 Rural, party lines -----1 50 per month
 Farmer lines -----1 00 per month

WHITE'S EXCHANGE.

Party lines -----\$1.00 and \$1 25 per month

Special rates in a limited number of cases are in effect as follows:

For service (without toll charge) between two towns -----\$4 00 per month
 between three towns -----5 50 per month
 between four towns -----7 50 per month
 Local switching, nonsubscribers -----10 cents per call
 Switching rate from Forest Service lines to toll lines -----10 cents per call

In addition to the local exchanges referred to above, applicant maintains the following toll stations:

Ablgreen	Everill	Nerfony	Scotts Bar
Black Bear	Forks of Salmon	Oreutt	Sciad Valley
Bonally	Gilta	Orleans Bar	Snowden
Callahan	Highland	Rollin	Somes
Eliza Mine			

The present toll and telegraph rates between all points on applicant's system, including local exchanges and toll stations and the Yreka exchange of The Pacific Telephone and Telegraph Company are based

on the circuit mileage involved and, according to applicant's filed toll tariffs, are as follows:

Up to 30 miles, 25 cents for 3 minutes, 5 cents each additional minute
 31 to 40 miles, 35 cents for 3 minutes, 10 cents each additional minute
 41 to 50 miles, 40 cents for 3 minutes, 10 cents each additional minute
 51 to 75 miles, 50 cents for 2 minutes, 10 cents each additional minute

Telegraph rates, 10 words or less, same as conversation rates and 2 cents for each additional word over 10.

DAY LETTERS AND NIGHT LETTERS.

When ten-word day rate is	Day letter rate is:		Night letter rate is:	
	50 words or less	each additional ten words	50 words or less	each additional 10 words
25 cents	38 cents	7 cents	25 cents	5 cents
35 cents	53 cents	10 cents	35 cents	10 cents
40 cents	60 cents	10 cents	40 cents	10 cents
50 cents	75 cents	12 cents	50 cents	10 cents

For stations connected with applicant's toll lines a rate of \$1.50 per month is required and in addition the full toll rate is charged for each call.

As stated above, applicant desires to double the present exchange rates and to increase the present toll rates by 50 per cent.

Since the hearing in this matter and the subsequent submission by applicant of the data above mentioned the Commission's engineers have made an inspection of the greater portion of applicant's system and have completely inventoried and appraised its entire property. A thorough examination of applicant's records has also been made since the hearing and its revenues and expenses determined. The present filed toll tariffs as set forth in the foregoing provide for a time limit and overtime rates for toll messages. It has been found, however, that the time limit and overtime rates have not been enforced. Instead, flat rates only have been collected without regard to the amount of time consumed in toll messages. Reference will be made hereafter to the present method of collecting rates on "through" toll messages and to discrimination which results from this method. To correct the present practice and in the interest of uniformity, applicant's entire toll rate schedules should be adjusted and revised and proper rates determined and prescribed. To determine toll rates which will be just and reasonable under the circumstances in this case, a study of actual toll traffic has been necessary in order to determine the effect on toll revenues of given toll rates and, since toll conversations have heretofore been unlimited as to time, applicant's records prior to the hearing can not be utilized for this purpose. Applicant has accordingly made and submitted subsequent records of actual toll traffic from which studies have been made by the Commission's engineers to determine the effect of a revised schedule of toll rates on toll revenues. It is these necessary studies principally, extending over a considerable period of time, which have delayed a final determination of this case.

Applicant's present exchange rate schedules shown above provide only for business party line service, residence party line service, rural party line service and farmer line service. The rates applicable to these various classes of service are charged without regard to the number of subscribers served from each subscriber's line. In the Etna Mills and Fort Jones exchanges there are instances in which subscribers are furnished one party, two party and four party line service while others are furnished service from lines having five and six connected stations, each paying the same or similar rates for service. This condition should be corrected by providing different rates commensurate with the class of service actually in use, and by limiting the number of stations per line in each case to the maximum specified in the rate schedules for each class of service. In each case in which there is now connected to any one subscriber's line, a number of telephones in excess of the number for which the respective rates provide, the excess should be removed and connected to other existing lines, if existing lines with necessary vacancies are available. If existing lines are not available for this purpose sufficient additional lines to relieve present overloaded lines should be provided. Investigation since the hearing has also disclosed that there is a subscriber's line extending between Etna Mills and Fort Jones which is connected with the exchange at each of these places. Subscribers connected with this line can call either or both of these exchanges without the payment of the toll charge to which other subscribers are subject. This is a discriminatory privilege which should be discontinued by discontinuing the connection either at Etna Mills or at Fort Jones, or by cutting the line between the two exchanges, as circumstances may require.

With reference to the special rates now in effect, entitling those subscribing thereto to unlimited switching between exchanges without the payment of tolls, this is a special privilege not uniformly held out to all subscribers. It should be held out uniformly and without discrimination to all subscribers who may desire it or it should be discontinued entirely. There is nothing in the evidence now before the Commission to justify its continuance and, in the absence of such justification, it should be discontinued.

It will be seen also from the foregoing reference to stations connected to toll lines, that a flat rate of \$1.50 per month is charged for each of such stations and in addition the established toll rates are charged for each call for which the station is used. Since the only service available from these stations is toll service this amounts to a charge of \$1.50 per month for no purpose other than the convenience of an available telephone for toll use. Applicant is of course entitled to payment of a fixed amount from these stations but the present charge

is unreasonable. For this purpose the order herein will provide a net monthly toll guarantee for stations of this class under which the subscriber will not be required to pay in excess of the amount of the guarantee until the actual use of the service at established toll rates may equal the amount of the guarantee. In that event the amount payable by the subscriber shall be the aggregate of the toll charges at established toll rates for the service actually used plus a standby charge of 50 cents.

Prior to the period of government control of telephone and telegraph companies applicant's present toll and telegraph rates were effective between all points on applicant's lines whether the business was handled entirely over its lines or whether handled partly over them and partly over other lines. During the period of government control the Postmaster General of the United States, acting for the federal government, made effective a schedule of "through rates," based on air line distances between the points involved. This schedule was made effective for messages originating at points in the system of The Pacific Telephone and Telegraph Company and terminating at points in applicant's system. This resulted in reducing the rates on such messages for the portion of the haul handled over applicant's lines and the rates thus established are still in effect for "through" messages originating at Pacific Company points. Similar "through rates" were not then and are not now charged and collected by applicant on "through" messages originating on applicant's system. Instead, applicant charges and collects full schedule rates for the portion of the haul handled over its lines. Thus for through messages involving the use of the lines of both companies the rates between any two points are greater in one direction than in the opposite direction and are therefore discriminatory.

As to toll and telegraph rates we find that the rates established by Order No. 2495 and as modified by Order No. 2797 of the Postmaster General of the United States, as those orders apply to person to person toll service and Order No. 2940, applying to telegraph service, may be made effective by applicant without serious detriment to the toll service revenues for business involving only the use of applicant's lines. Their application to "through" toll and telegraph messages will remove the discrimination heretofore referred to and will bring about uniformity as between applicant's rates and those for similar service now in general effect throughout California. In some cases present initial rates will be reduced, others will be increased and in others they will remain unchanged.

The Commission's appraisal of this property is made as of October 1, 1920, on an historical reproduction cost basis. This cost, undepreciated, is \$37,909 and depreciated, is \$24,821. The amount expended in net

additions from the date of the Commission's appraisal to August 20, 1921, is \$2,785, bringing the total valuation, undepreciated as of the latter date to \$40,694. On the basis of actual business as of August, 1921, after allowing for estimated operating expenses, taxes and \$1,800 for depreciation, without any increase in the volume of business, it is estimated that the rates hereinafter authorized will produce net operating revenues amounting to approximately \$1,500 for the year 1922. This would represent a net return of approximately 4 per cent on the undepreciated value of applicant's property. During the five years from 1916 to 1920, the average yearly increase in gross revenues was approximately 7 per cent of the 1920 gross. With a similar increase in 1922 over 1921, the net return under these rates would amount to approximately 6 per cent.

In this case the territory served is mountainous, widely scattered and sparsely settled. The investment in lines and other equipment necessary to provide service and the cost of operation is such that rates sufficient to meet operating expenses, pay taxes, provide for a proper depreciation reserve and earn what would constitute a full fair return under more favorable conditions would necessarily be higher than would ordinarily be required, and, in our opinion, higher than the present service would justify. However, with a normal increase in the present volume of business, the rates herein authorized will yield a reasonable return on the present investment. Furthermore, they compare favorably with the rates for similar service elsewhere and, while they are lower than those sought by applicant, it is our opinion that they are just and reasonable under the circumstances in this case.

It will be seen by reference to the exchange rates for which the following order provides, that the farmer line rate is \$6 per year whereas the rates for business and residence ten-party line suburban service are \$2.25 and \$2 per month, respectively, at Etna Mills and Fort Jones, and \$2 and \$1.75 per month, respectively, at other exchanges. These two classes of lines serve the same general territory and in some instances they are parallel lines. Farmer-line subscribers are required, as the rate schedules herein set out provide, to provide at their own expense all necessary lines, telephones, substation protection and maintenance of the same. Suburban lines and equipment and maintenance of the same, on the other hand, are provided by the telephone company. By reason of the difference in rates for these two classes of service there may be developed a demand on the part of suburban subscribers for the substitution of farmer-line service. In the event of such demand developing to the extent that it may result in the abandonment of suburban lines, applicant should be permitted to refuse to transfer

present subscribers to farmer lines except upon condition that it be properly reimbursed for its investment in the suburban lines involved.

Elsewhere in this opinion reference is made to the connection of applicant's lines with government lines owned and operated by the Forest Service. Protestants are opposing an increase in the present rates on the ground that their use of the service is seriously interfered with, where the lines of the Forest Service operate, by the excessive use of applicant's lines by Forest Service employees. In this connection protestants are of the opinion that the Forest Service pays nothing for the use of applicant's lines and that, if this service were paid for in proportion to its use, the increases now being sought would be unnecessary. It is perhaps not necessary to refer further to the purposes of the Forest Service lines and the use of applicant's lines by Forest Service employees than to mention that primarily they are for the protection of the forests against fire. To encourage and promote the cooperation of the public in the prevention and suppression of forest fires the Forest Service offers certain inducements to the public which include the free use of its lines within the forest boundaries. Beyond those boundaries it requires access to available commercial lines for its own business in return for which it grants rights of way and other valuable considerations. In this instance, except on official business, applicant is paid for all messages to and from Forest Service lines and in addition certain fixed amounts are paid by the Forest Service for operators' salaries. It may be that official business of the Forest Service may at times require very considerable use of applicant's lines but it does not appear that such use imposes any undue burden either upon applicant or its patrons.

ORDER.

Application having been filed by Siskiyou Telephone Company for an order increasing its exchange rates and toll rates and adjusting the same, a public hearing having been held, the matter having been submitted and the Commission being fully apprised:

It is hereby found as a fact that the present rates charged and collected by Siskiyou Telephone Company for local exchange service and for toll service are unjust and unreasonable and that the rates hereinafter authorized to be charged and collected for local exchange service and for toll service are just and reasonable rates.

Basing its conclusions on the foregoing finding of fact and on the other findings referred to in the preceding opinion;

It is hereby ordered, that Siskiyou Telephone Company be and it is hereby authorized to publish and file with this Commission within thirty (30) days from the date of the order herein and upon approval thereof

to make effective on and after the date or dates specified in said approval, the following schedules of rates and charges to wit:

Local Exchange Rate Schedules.

Etna Mills and Fort Jones Exchanges:		Business	Residence
1-party line, unlimited service, *wall set, per month	-----	\$2 75	\$2 25
2-party line, unlimited service, *wall set, per month	-----	2 25	2 00
4-party line, unlimited service, *wall set, per month	-----		1 75
10-party suburban, unlimited service, *wall set, per month	-----	2 25	2 00
Extensions, wall or desk set, per month	-----	1 00	1 00
Farmer lines, per station, per year	-----		6 00

All other exchanges:

1-party line, unlimited service, *wall set, per month	-----	\$2 50	\$2 00
2-party line, unlimited service, *wall set, per month	-----	2 00	1 75
4-party line, unlimited service, *wall set, per month	-----		1 50
10-party suburban, unlimited service, *wall set, per month	-----	2 00	1 75
Extensions, wall or desk set, per month	-----	1 00	1 00
Farmer lines, per station, per year	-----		6 00

NOTE: At all exchanges the farmer line rates herein provided shall apply only when subscribers provide, own and maintain their own telephones, necessary sub-station protection and necessary lines. The minimum charge for any farmer line under this rate shall not be less than the equivalent for five (5) stations. Farmer line rates are payable annually in advance and are subject to a discount of 10 per cent if bills are paid during the first month of the year for which they are rendered.

Particular Person Toll Rates.

Until or unless otherwise ordered or authorized by the Railroad Commission, the long distance toll rates herein authorized to be charged and collected between all stations of Siskiyou Telephone Company and between said stations and stations of The Pacific Telephone and Telegraph Company shall be as provided in Order No. 2495 and Order No. 2797, issued by the Postmaster General of the United States on December 13, 1918, and February 17, 1919, respectively, as follows:

Where the distance between exchanges or toll points does not exceed 24 miles by direct air line measurement, the initial period rates shall be as provided in the following:

For distance more than	But not more than	Initial rate shall be
0 miles	12 miles	\$0 15
12 miles	18 miles	20
18 miles	24 miles	25

For all distances in excess of 24 miles by direct air line measurement, the initial period rates shall be:

24 miles	32 miles	\$0 30
32 miles	40 miles	35
40 miles	48 miles	40
48 miles	56 miles	45
56 miles	64 miles	50

and for each additional 8 miles or fraction thereof the initial rate shall be 5 cents additional.

For the purpose of applying the initial rates hereinabove provided for, the method of measurement of direct air line distances between exchange and toll points shall be as provided and described in Order No. 2495 of the Postmaster General, herein referred to.

*For desk set instead of wall set, 25 cents per month additional.

Initial Periods, Overtime Periods and Overtime Rates.

Where the initial rate is	The initial period is	The overtime period is	The overtime rate is
\$0 15	3 minutes	1 minute	\$0 05
20	3 minutes	1 minute	05
25	3 minutes	1 minute	05
30	3 minutes	1 minute	10
35	3 minutes	1 minute	10
all other rates	3 minutes	1 minute	and thereafter the overtime rate shall be approximately one-third of the initial rate, and in no case more than one-third of the initial rate.

In cases in which it is impossible to establish communication between particular persons, a limited charge as hereinafter provided and subject to the conditions set forth in Order No. 2495, governing such cases, to be known as a "Report Charge," may be made as follows:

Where the initial rate is	The report charge may be
Not less than 20 cents and not more than 50 cents.....	\$0 10
More than 50 cents and not more than 75 cents.....	15
More than 75 cents and not more than \$1.00.....	20
More than \$1.00 and not more than \$1.25.....	25
More than \$1.25 and not more than \$1.50.....	30
More than \$1.50 and not more than \$1.75.....	35
and thereafter an additional charge of 5 cents for each additional 25 cents or less in the initial rate.	

Net Monthly Guarantee for Toll Line Subscriber Stations.

In cases in which subscribers' stations may be connected with the toll lines of Siskiyou Telephone Company, the company may require the payment of a net monthly guarantee not to exceed the sum of \$2.25 for each such station, and may charge and collect its full toll rates for each call placed from the subscriber's station, in accordance with the toll rates hereinabove authorized, subject to the conditions following: The maximum monthly charge which may be made and collected from each such station shall not exceed the said sum of \$2.25 until the aggregate sum chargeable for all calls placed from and charged to each such station at the full toll rates hereinabove authorized shall be equal to or greater than the said sum of \$2.25. Whenever and as the aggregate monthly sum herein referred to shall be equal to or greater than the said sum of \$2.25, the maximum payment which may be required from each such station shall be an amount equal to the aggregate sum of all charges made against such station at the toll rates herein authorized, for all calls placed from such station, plus a charge of 50 cents.

Telegraph Rates.

The rates for telegrams between Yreka and points on the lines of Siskiyou Telephone Company shall be as follows:

Day messages	For 10 words or less	For each additional word
Yreka to		
Ahlgreen	60 cents	34 cents
Black Bear	60 cents	34 cents
Bonally	60 cents	34 cents
Callahan	35 cents	3 cents
Eliza Mine	30 cents	24 cents
Etna Mills	30 cents	24 cents
Everill	60 cents	34 cents
Forks of Salmon	60 cents	34 cents
Fort Jones	30 cents	24 cents
Gilta	60 cents	34 cents
Greenview	30 cents	24 cents
Hamburg	60 cents	34 cents
Happy Camp	75 cents	4 cents
Highland Mine	48 cents	34 cents
Nefronney	48 cents	34 cents
Orcutt	60 cents	34 cents

Telegraph Rates—Continued.

Day messages	For 10 words or less	For each additional word
Yreka to		
Orleans Bar -----	60 cents -----	3½ cents
Rollin -----	60 cents -----	3½ cents
Sawyers Bar -----	60 cents -----	3½ cents
Scott Bar -----	60 cents -----	3½ cents
Seiad -----	75 cents -----	4 cents
Snowden -----	48 cents -----	3½ cents
Somes Bar -----	60 cents -----	3½ cents
Whites -----	30 cents -----	2½ cents

Day Letters. The rates for day letters of 50 words or less shall be one and one-half times the 10-word day message rates. For each additional 10 words or less the rates shall be one-fifth of the 50-word day letter rates.

Night Letters. The rates for night letters of 50 words or less shall be the same as the rates for 10-word day messages. For each additional 10 words or less the rates shall be one-fifth of the 50-word night letter rates.

All of the rates at present in effect, except as herein otherwise provided, shall be continued in effect until or unless changes therein are ordered or authorized by this Commission.

Until or unless otherwise ordered or authorized by this Commission, the rules and regulations of Siskiyou Telephone Company shall be as provided in Decision No. 2879 and as modified in Decision No. 8146 of this Commission in so far as the provisions thereof are applicable in this case.

The rates hereinabove authorized, upon compliance with the foregoing provisions as to filing and publication and as to the effective date or dates thereof, may be made effective subject to the conditions following:

1. That in no case shall subscribers paying the rates hereinabove provided for one-party service, two-party service and four-party service be connected with or served from any line having connected thereto in excess of one, two or four subscribers' stations, in each respective case, as provided in the rate schedules.

2. All special privileges heretofore accorded subscribers, including unlimited switching privileges between exchanges and special or exception rates, unless uniformly accorded all subscribers without discrimination, shall be immediately discontinued.

3. Suburban subscribers making application for transfers from suburban to farmer line service may be required to reimburse the telephone company, in such amount as may be reasonable and proper, for such loss in investment, if any, as may result by reason of abandonment of suburban lines in whole or in part when such transfers of service are made. In cases in which such suburban subscribers refuse to reimburse the company as herein provided, the company may refuse to transfer the service, subject to appeal to the Railroad Commission.

4. Siskiyou Telephone Company shall at all times provide adequate and efficient telephone service to all of its subscribers and patrons.

Dated at San Francisco, California, this twenty-first day of March, 1922.

DECISION No. 10220.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY AND CITY OF LOS ANGELES FOR AN ORDER AUTHORIZING SOUTHERN CALIFORNIA EDISON COMPANY TO SELL TO THE CITY OF LOS ANGELES THE DISTRIBUTING SYSTEM OF SAID SOUTHERN CALIFORNIA EDISON COMPANY, SITUATED WITHIN SAID CITY OF LOS ANGELES, IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THE CONTRACT BETWEEN SAID PARTIES, DATED MAY 26, 1919, AND AGREEMENTS SUPPLEMENTAL THERETO, AND APPROVING SAID CONTRACT AND SAID AGREEMENTS SUPPLEMENTAL THERETO.

Application No. 7632.

Decided March 22, 1922.

TRANSFER—ELECTRIC—PURCHASE AGREEMENT.—Approval is given to the sale by Southern California Edison Company to the city of Los Angeles of its entire electric distributing system within the corporate limits of the city.

RATES—MUNICIPAL PLANTS—JURISDICTION.—Referring to the claim that as the Commission has no jurisdiction over municipally owned plants and hence the consumers of the city will be without proper relief, the Commission points out that the laws of this state provide for public ownership of public utility properties and do not extend the Commission's jurisdiction over rates charged by municipalities. The opinion adds: Those who do not approve of this condition must of necessity appeal to the people and the legislature for necessary changes in the state constitution and laws. It would be improper for this Commission to act in such a manner that its action might be construed as being against public ownership and an attempt to defeat the provisions of the constitution and the laws of the state.

Roy V. Reppy, for Southern California Edison Company.

Jess E. Stephens and *W. B. Mathews*, for City of Los Angeles and Board of Service Commissioners of Los Angeles.

Paul Overton, for Los Angeles Gas and Electric Corporation, Protestant.

George L. Sanders, Esq., in *propria persona*.

Percy V. Hammon, for self and John Reid.

BRUNDIGE, Commissioner.

OPINION.

The Railroad Commission is asked to make an order authorizing Southern California Edison Company, hereinafter referred to as the "company," to sell the properties described in this application to the city of Los Angeles and the board of public service commissioners of said city, hereinafter collectively referred to as the "city."

On May 26, 1919, the company and the city entered into a certain agreement, copy of which is filed in this proceeding, together with the amendments thereto, all of which are referred to herein as the "Purchase Agreement." Under the terms of the "Purchase Agreement," the company agrees to sell and the city to purchase the entire electric distributing system owned by the company situated within the corporate limits of said city and consisting generally of the following:

"Lands and improvements thereon, rights of way, easements, franchises, local distributing substation equipment, high tension and low tension lines, cables, wires, conduits, manholes and equipment, transformers and land devices, electric services, meters, public lighting equipment, domestic and commercial lighting equipment,

local telephone systems and commercial and engineering records useful in the location, identification, operation and maintenance of said distributing systems, and in furnishing electrical service by means of such systems, excepting therefrom any franchises or right of said company, its successors or assigns, to maintain and operate transmission lines across the city, now existing or hereafter built, and transmission and distributing lines and works solely for supplying and delivering electric current to railways for their own use, or to said city under the provisions of this agreement: a more particular description of the properties embraced in such purchase being contained in 'Exhibit A,' hereto attached and made a part hereof."

"Exhibit A" attached to the purchase agreement contains a more detailed description of the properties.

The city has agreed to pay for the properties as they existed on May 26, 1919, the sum of \$11,000,000 plus the cost of extensions and betterments made by the company within the said city after June 30, 1919, less the money in the depreciation fund created by Article III of the "Purchase Agreement." The city also agrees not to extend its lines into territory annexed to the city after the execution of the agreement, unless the company should refuse on demand of the city to sell its distributing system in such annexed territory at a price to be fixed by the Railroad Commission. The city further agrees that for a period of fifteen years from and after the transfer of the properties it will sell to the company, at rates fixed by the Railroad Commission, its surplus electric energy.

The company shall sell, furnish and deliver to the city and the city shall purchase, (a) all electric energy which the city requires during the period of ten years from and after the date of transfer of the properties to the city, in order to supply consumers served by the city for use within the limits of the city, as mentioned above, in excess of the amount which the city shall generate at hydro-electric plants now or hereafter owned or controlled by it, also in excess of the electric energy which the city may generate in the steam plant of the Los Angeles Gas and Electric Corporation, in the event that such plant should be acquired by the city, up to the total capacity of said steam plant at the time of acquisition; and (b) all electric energy which the city shall require each year for and during a period of twenty years immediately succeeding the ten year period mentioned, in order to supply consumers served by it for use within the limits of the city, as described, in excess of the amount which the city shall generate at electric plants of any kind now or hereafter owned or controlled by it. The city is given the right and option to terminate this twenty year period by giving the company two years' notice, provided the termination is approved by the majority of the qualified voters of the city voting on the question at either a general or special election held at any time after eight years from the time of said transfer of the properties at which such question may be lawfully submitted.

The "Purchase Agreement" provides that the right of the company to purchase the surplus electric energy from the city is forfeited if the company during the fifteen year period mentioned, knowingly supplies electric energy for use within the city limits as they may exist from time to time to any other company or corporation engaged in the business of distributing and selling electric energy to consumers within the city, except in accordance with an order of court, or other public authority having jurisdiction in the matter.

Los Angeles Gas and Electric Corporation through its representatives urges that the application be denied for the reason, among others, that the "Purchase Agreement" gives the Edison Company the privilege of buying the surplus electric energy that may be generated by the city of Los Angeles in its various hydro-electric generating plants, which privilege is forfeited if it knowingly supplies electric energy for use within the city limits as they may exist from time to time, to any other company or corporation engaged in the business of developing and selling electric energy to consumers within said city; that the transfer of the properties will prevent the interchange of electrical energy between the Edison Company and the Los Angeles Gas and Electric Corporation, and that if the transfer is consummated the consumers of the city for the reason that the city is not under the jurisdiction of the Commission will be unable to obtain relief from the Commission. This last mentioned objection is also commented on by Percy V. Hammon, appearing for himself and John E. Reid, and by George L. Sanders.

By paragraph nine of the purchase agreement, the company is virtually given an option to purchase the surplus electric energy of the city during a period of fifteen years from and after the transfer and delivery of the properties to the city. The privilege is granted, among others, subject to the following proviso:

"That in the event the company shall at any time during said period of fifteen years knowingly supply electrical energy for use within the limits of the city, as they may exist from time to time to any other company or corporation engaged in the business of distributing and selling electric energy to consumers within said city excepting in compliance with an order of the court or other public authority having jurisdiction in the matter, then, in that event and thereupon, said right of the company to purchase surplus electric power from the city shall cease and terminate."

The "Purchase Agreement" does not go to the extent indicated by counsel for Los Angeles Gas and Electric Corporation. The Edison Company will if ordered by a court or this Commission sell electrical energy to a company or companies operating within the city of Los Angeles.

At present there is an interchange of direct current service between the Edison Company and the Los Angeles Gas and Electric Corporation. The Edison Company lines necessary to continue this service will be transferred to the city if this application is granted. It is urged that Los Angeles Gas and Electric Corporation consumers may thus be deprived of service with the resultant loss to the corporation. It appears that a relatively small expenditure will enable the Los Angeles Gas and Electric Corporation to install the necessary facilities to render service to these consumers, should the city acquire the Edison Company properties and not continue the interchange of direct current service. There is, however, no evidence before the Commission that the city will terminate the arrangement. If it should, the consumers dependent upon the direct current service could apparently be served either by the city or the Los Angeles Gas and Electric Corporation after the installation by it of the necessary facilities. I do not regard this objection to the transfer of the properties as being of a fundamental nature, though I do believe that the Edison Company should for a period of ninety days be required to sell electric energy to the Los Angeles Gas and Electric Corporation and that such electric energy should be transmitted over the present lines whether owned by the Edison Company or the city in order that the service to the consumers dependent upon the interchange of direct current service between the Edison Company and the Los Angeles Gas and Electric Corporation may not be discontinued. Ninety days should be ample time to work out and take care of this situation.

For the reason that this Commission has no jurisdiction over the rates of municipally owned plants, it is urged that the consumers of the city will be without proper relief. The laws of this state provide for public ownership of utility properties and do not extend this Commission's jurisdiction over rates charged by municipalities. Those who do not approve of this condition must of necessity appeal to the people and the legislature for necessary changes in the state constitution and laws. It would be improper for this Commission to act in such a manner that its action might be construed as being against public ownership and an attempt to defeat the provisions of the constitution and the laws of the state.

I am satisfied that the transfer of the Edison Company properties, described in this application, to the city will prevent the construction of duplicate lines and facilities and that the transfer is in the interest of the public generally.

I herewith submit the following form of order:

ORDER.

Southern California Edison Company having applied to the Railroad Commission for permission to sell certain properties, described in exhibits filed in this proceeding, to the city of Los Angeles and its Board of Public Service Commissioners, a hearing having been held and the Commission being of the opinion that this application should be granted subject to the conditions of this order;

It is hereby ordered, that Southern California Edison Company be and it is hereby authorized to sell to the city of Los Angeles and its Board of Public Service Commissioners the properties described in this application and in exhibits filed in this proceeding, said sale to be made pursuant to the terms of the agreements filed in this proceeding and marked "Exhibit A"; "Exhibit B"; "Exhibit C"; "Exhibit D" and "Exhibit E"; provided:

1. Southern California Edison Company will continue and it is hereby directed to continue to sell, for a period of ninety days from and after the date hereof, electrical energy to the Los Angeles Gas and Electric Corporation under the interchange of direct current service arrangement now existing between the two companies, said electrical energy to be transmitted over the lines now used whether owned by the Edison Company or the city.

2. Southern California Edison Company will file with the Railroad Commission a verified copy of the deed under which it transfers to the city title to the properties, said copy of the deed to be filed within thirty days after the transfer of the properties.

3. Southern California Edison Company will notify the Commission of the date on which it relinquishes possession of the properties to the city.

4. Southern California Edison Company will file with the Commission monthly statements showing the purposes for which it has expended the moneys obtained from the sale of the properties herein authorized, said statements to be filed on or about the first day of each month.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-second day of March, 1922.

DECISION No. 10221.

TRAFFIC BUREAU OF THE STOCKTON CHAMBER OF COMMERCE

vs.

SOUTHERN PACIFIC COMPANY, WESTERN PACIFIC RAILROAD COMPANY, ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY (COAST LINES), TIDEWATER SOUTHERN RAILWAY COMPANY, SIERRA RAILWAY COMPANY OF CALIFORNIA, VISALIA ELECTRIC RAILROAD COMPANY, SUNSET RAILWAY COMPANY.

Case No. 1649.

Decided March 22, 1922.

RATES—RAILROAD—WATER COMPELLED—LONG AND SHORT HAUL.—It is held that under section 21, article XII of the state constitution and section 24a of the Public Utilities Act, a carrier may not charge any greater compensation as a through rate than the aggregate of the intermediate rates. It is therefore held compulsory on the part of the carrier in the instant case to publish rates from San Francisco to points in the San Joaquin Valley which shall not be in excess of the combination on Stockton made by use of the water compelled rates. The constitution does not require that rates must be a combination of locals and, therefore, it is not unlawful for a carrier to establish through rates lower than such combination on the rate-breaking points.

RATES—BLANKETING—ECONOMIC EQUALITY.—The practice of including many points in the same group is recognized as proper. This procedure is stated to simplify tariffs, to be of advantage both to shipper and carrier and to result in an equality of opportunity to jobbing and manufacturing points.

J. C. Sommers and S. M. Spurrier, for Complainant.

H. W. Klein and Elmer Westlake, for Southern Pacific Company, Sierra Railway Company and Visalia Electric Railway Company.

E. W. Camp and B. Levy, for The Atchison, Topeka and Santa Fe Railway Company and Sunset Railway Company.

James S. Moore, Jr., and Theodore Harte, for Western Pacific Railroad Company and Tidewater Southern Railroad Company.

Seth Mann, for San Francisco Chamber of Commerce.

F. P. Gregson, for Los Angeles Chamber of Commerce and Associated Jobbers of Los Angeles.

Geo. J. Bradley, for Merchants and Manufacturers Traffic Association of Sacramento.

Frank M. Hill, for Fresno Traffic Association, Bakersfield Civic Commercial Association and San Joaquin Valley Commercial Secretaries Association.

W. D. Wall, for Traffic Bureau San Jose Chamber of Commerce.

H. W. Hollingsworth, R. T. Boyd and Bishop and Bahler, for Traffic Bureau Oakland Chamber of Commerce.

Geo. D. McCabe, for City of Modesto and San Joaquin Valley Commercial Secretaries Association.

H. L. Morrison, for Porterville Districts and San Joaquin Valley Commercial Secretaries Association.

A. M. Robertson, for Lindsay Chamber of Commerce and San Joaquin Valley Commercial Secretaries Association.

Guy Windrem, for Madera Chamber of Commerce and San Joaquin Valley Commercial Secretaries Association.

C. L. Shafer, for California Co-Operative Canneries, Visalia, Modesto and San Jose.

E. J. Emmons, for Progressive Business Club of Bakersfield.

H. C. Katz, for Bakersfield Civic Commercial Association.

LOVELAND, Commissioner.

OPINION.

This complaint, originally filed August 17, 1921, and amended January 5, 1922, alleges that all of the class freight rates of the defendants

applying from San Francisco, San Jose, Oakland, Sacramento and Los Angeles to points in the San Joaquin Valley are preferential and discriminatory as compared with the class rates from Stockton to the same points. The complaint is based primarily upon the allegation that by reason of the rate adjustments since Decision No. 56 in Case No. 116 of March 28, 1912 (1 C. R. C. 95) was rendered the relationship existing in the rates from Stockton as compared with the rates from other points named and particularly those from San Francisco has resulted to the disadvantage of Stockton.

The prayer is that the defendants be required to readjust all of these class rates from all of the shipping points in Northern California to points in the San Joaquin Valley to a basis comparable to the adjustment put into effect by reason of the decision made in Case 116, *supra*, with the war time increases added to the different rate factors and that the rates from Los Angeles to the same points in the San Joaquin Valley should be computed on the same basis with equated mileage equal to 160 per cent of the actual for the distance Los Angeles to Bakersfield, this to compensate for the alleged mountain haul difficulties between Los Angeles and Bakersfield.

Hearings were held at Stockton, January 10 and 11, 1922, before Commissioner Loveland, and at San Francisco, February 10, 1922, before the Commission *en banc*.

Appearances of intervention were entered by

San Francisco Chamber of Commerce,
Oakland Chamber of Commerce,
San Jose Chamber of Commerce,
Los Angeles Chamber of Commerce,
Associated Jobbers of Los Angeles,
Merchants and Manufacturers Association of Sacramento,
Fresno Traffic Association,
San Joaquin Valley Commercial Secretaries Association,
City of Modesto,
Porterville Chamber of Commerce,
Lindsay Chamber of Commerce,
Madera Chamber of Commerce,
California Co-Operative Cannery, located at Visalia, Modesto and
San Jose,
Progressive Business Club of Bakersfield,
Bakersfield Civic Commerce Association,
Bakersfield Civic Association.

The Commission, in Case 116, established the specific rates between Stockton and points in the San Joaquin Valley, and between Los

Angeles and the same points of destination, while the rates from San Francisco were made by the carriers themselves on the basis of the water-compelled rates San Francisco to Stockton, plus the rates established by this Commission from Stockton to the interior points. In addition, the water-compelled rates were also applied to points not directly on the river, but whose nearness to it influenced the adjustments.

Since the decision was rendered, March 28, 1912, the class rates into the San Joaquin Valley have been materially increased. Originally, the first class rate between San Francisco and Stockton was 10 cents, a depressed adjustment established by the carriers to meet water competition. The class rates between San Francisco and Stockton have advanced from a first class of 10 cents to a first class of 28 cents, the increases having been accomplished during the war period.

It is the contention of Stockton in this proceeding that the rates from San Francisco should be the 28 cent scale to Stockton, plus the run-out of rates on mileage from Stockton to the interior points in the San Joaquin Valley.

Sixteen exhibits were introduced by the complainant, all of which were intended to illustrate that the present rates from San Francisco and the other northern points were to the disadvantage of Stockton by reason of the fact that rates are not now a full combination of the locals over Stockton.

The following tabulation explains the situation:

First class rates between San Francisco, Stockton and Los Angeles on the one hand and points specified on the other, during period indicated, and the differential in favor of Stockton as against San Francisco and Los Angeles.

And	Date	Between			Differential in favor of Stockton as against	
		San Francisco	Stockton	Los Angeles	San Francisco	Los Angeles
		First class freight rate per 100 pounds				
Merced -----	{ June 24, 1918	\$0 35	\$0 25	\$0 80	\$0 10	\$0 55
	{ June 25, 1918	44	31½	1 00	12½	68½
	{ August 26, 1920	55	39½	1 25	15½	85½
Fresno -----	{ June 24, 1918	53	43	74	10	31
	{ June 25, 1918	66½	54	92½	12½	38½
	{ August 26, 1920	83	67½	1 15½	15½	48
Bakersfield -----	{ June 24, 1918	72	56	63	06	03
	{ June 25, 1918	90	82½	79	07½	03½*
	{ August 26, 1920	1 12½	1 03	99	09½	04*

*In favor of Los Angeles.

From the above table it will be seen that when the differentials in favor of Stockton as against San Francisco and Los Angeles are considered, Stockton is in a much better position today than it was in 1912, when our decision in Case 116 was rendered. It is to be noted that

the differential in favor of Stockton as against San Francisco at Merced was originally 10 cents, increased to $12\frac{1}{2}$ cents on June 25, 1918, and to $15\frac{1}{2}$ cents on August 26, 1920, an additional advantage of $5\frac{1}{2}$ cents per 100 pounds. To the same destination (Merced) the differential in favor of Stockton as against Los Angeles was originally 55 cents, increased June 25, 1918, to $68\frac{1}{2}$ cents and August 26, 1920, to $85\frac{1}{2}$ cents, or an additional advantage over Los Angeles of $30\frac{1}{2}$ cents. The same may be said of Fresno, where the differential in favor of Stockton as against San Francisco was increased by $5\frac{1}{2}$ cents, and as against Los Angeles by 17 cents. At Bakersfield, Stockton's advantage as against San Francisco was increased from 6 cents to $9\frac{1}{2}$ cents, or by $3\frac{1}{2}$ cents. At the same point, where Los Angeles had an advantage over Stockton originally of 3 cents, the advantage is now 4 cents, or an increase of but 1 cent. To the further benefit of Stockton as a jobbing point, it may be stated that since the year 1917 Stockton has had the benefit of the same transcontinental terminal freight rates as San Francisco, San Jose and Sacramento, which rate adjustment was restored by an order of the Interstate Commerce Commission. Therefore, on commodities moving from transcontinental points to Stockton and re-shipped from Stockton to points in the San Joaquin Valley, the rate adjustments today in effect are decidedly in favor of Stockton as a jobbing center.

It is not denied that actual water competition exists in the rates in effect between San Francisco and Stockton. As heretofore stated, the first class rate between these points was 10 cents at the time Case No. 116 was decided. This rate is now 28 cents, or an increase over the rate in effect in the year 1912 of 180 per cent, which increase was brought about by reason of the World War.

If the rate between Stockton and San Francisco were placed upon the same mileage basis as the rates from Stockton south it would be 44 cents, on a distance of 78 miles via the short line of the Santa Fe, an increase over the 10 cent rate of 340 per cent. The contention of complainant is that if the carrier were not permitted to meet water competition this would be the rate in effect today, but manifestly such an adjustment would be to the great disadvantage of Stockton in connection with local traffic to and from San Francisco.

Under the provisions of section 21, article XII, of the state constitution, and section 24 (a) of the Public Utilities Act, a carrier may not charge any greater compensation as a through rate than the aggregate of the intermediate rates. It is, therefore, compulsory on the part of the carrier to publish rates from San Francisco to points in the San Joaquin Valley which shall not be in excess of the combination on Stockton made by use of the water-compelled rates. The constitution,

however, does not require that rates must be a combination of locals and, therefore, it is not unlawful for a carrier to establish through rates lower than such combination on the rate-breaking points. As a matter of fact, through rates are lower than the combination of the locals and this practice has been fully justified in past proceedings. Under ordinary circumstances the imposing of a through rate made up of the combination of the respective locals would be questioned in most situations.

The first class rate between San Francisco and Stockton has been increased three times since decision in Case 116; the first occurring on August 8, 1917, when the rate was made 18 cents, the second June 25, 1918, when the rate became 22½ cents, and the third on August 26, 1920, when the rate became 28 cents. There were two increases in through rates during the war period, made by the federal authorities; the first June 25, 1918, by order of the Director General, his General Order No. 28, and the second August 26, 1920, by reason of the order of the Interstate Commerce Commission, its *ex parte* No. 74, which latter rates were also authorized by this Commission to meet the requirements of an act of Congress, commonly known as the Esch-Cummins, or Transportation Act. These two increases raised the San Francisco and Stockton through rates by approximately 56 per cent and, as stated, while not bringing about a full combination of locals resulted in a decided increase in the differentials existing in favor of Stockton.

If the San Francisco rates were always to be a combination over Stockton, we would have a changed adjustment every time the carriers readjusted their local schedules to meet the competing influences; in other words, if in the future the boat lines should either voluntarily, or by order of this Commission, reduce rates it would then become necessary under the theory advanced by the complainant in this proceeding to immediately reduce all rates from San Francisco to interior points, a proceeding which would redound to the detriment of Stockton. On the other hand, if the rates were increased between San Francisco and Stockton the readjustment would operate to the detriment of San Francisco and to the benefit of Stockton.

No testimony was given showing the volume of tonnage carried by the boat lines as compared with that handled by the rail lines, but the controlling power of the water lines remains and will always reflect an influence upon the freight rates between San Francisco and Stockton.

Reference was made to the grouping of the rates from San Francisco, San Jose and Sacramento into the San Joaquin Valley territory. This adjustment, however, does not appear out of line, for the reason that the differences in mileages from the three communities is not great; the distance from Sacramento to Fresno being 170.1, from San Jose

182.1 and from San Francisco 194.1. The greatest distance, that from San Francisco, is only 24 miles in excess of the shortest distant point, Sacramento.

The practice of including many points in the same group is frequently adopted by the carriers and has been recognized as proper by this and other Commissions. This procedure simplifies tariffs, to the advantage of both the shipping public and the carrier and results in an equality of opportunity to the jobbing and manufacturing points.

Summarized, complainants assail the present rate adjustment, not because of unreasonableness per se, it being admitted that no tests from this angle have been made, but solely upon the ground that the rates now in effect from San Francisco and Stockton are a departure from a long existing relationship. That the former relationship was of long standing is not without weight, but the testimony would indicate that it was established with reference to the competitive carrier situations and not to meet competitive commercial conditions. Rates from jobbing and producing centers should be related and a proper relationship between competitive points is often of greater importance to the shipping public than the measure of the rates themselves. Each producing point is entitled to the advantage of its location, and Stockton is entitled to the benefit of its location and no more. The through rates from the more distant points—San Francisco, Fresno, Los Angeles—into the San Joaquin Valley, can not be controlled by mere rate comparisons based on combinations over the Stockton rate structures. If such adjustment were approved other jobbing cities could, with perfect propriety, claim the same rate advantages against competing points. In Case No. 331, *Associated Jobbers of Los Angeles vs. Southern Pacific Company*, 2 C. R. C. 663, we said:

"The defendant maintains a most extraordinary scheme of rates from various points in California and Nevada into the Owens River country. It has been urged that the narrow gauge haul is unusually expensive and that the transfer from broad to narrow gauge cars should be considered in making rates from Los Angeles into this territory. The rates from Los Angeles, San Francisco, Stockton and Sacramento to the Owens River country have either been based on a combination of locals via Reno or Mojave, and I desire to state at this time that the Commission does not look with favor upon the building of rates on combination of locals over various junction points, and besides it is violative of all the theories which the carriers have advanced from time to time and which in many cases they carry into actual practice. A sample of this is the following rate on lumber, Los Angeles to Laws:

Los Angeles to Mojave	rate per ton	\$3 50	Commodity rate
Mojave to Owenyo	rate per ton	6 40	Class "B" rate
Owenyo to Laws	rate per ton	3 00	Class "B" rate

Through rate -----\$13 50

"A more iniquitous system of rate making would be hard to imagine. As has been well stated by the Interstate Commerce Commission, the rates per ton mile should ordinarily decrease as distance increases, while, of course, the aggregate rate will increase. This can not be possible when rates are built up on combination of locals."

The above quotation is controlling in the instant cases.

At the close of the hearing held in San Francisco, February 10, 1922, a motion was made to dismiss the proceeding upon the ground that this complainant had not proven its charge of discrimination and that, therefore, the defendant carriers and the protesting intervenors should not be put to the expense and loss of time in presenting their testimony and exhibits in opposition to the complaint.

It was pointed out by protestants that if by reason of this proceeding the freight rates were readjusted in such a manner as to bring about increases to the terminals other than Stockton irreparable damage would be done to the San Joaquin farming and manufacturing interests without any particular advantage to the Stockton merchants. The San Joaquin Valley has an enormous output of products of the soil to dispose of, with the world as its marketing place, and, therefore, should be permitted to move the tonnage through the various gateways at the lowest possible rates.

The rates under attack are those established during the war period, the last increase having been made August 26, 1920. Interstate Commerce Commission's Order in *ex parte* No. 74 and this Commission's Decision No. 7983 in Application No. 5728, which orders followed the provisions of an act of Congress ordinarily designated as the Esch-Cummins, or Transportation Act. All these rates are now again involved in Interstate Commerce Commission Docket No. 13293 before the Interstate Commerce Commission at Washington, D. C., and will be affected by either reductions or increases when the decision issues in that proceeding. Investigations are also being conducted with reference to the long and short haul violations of these rates. In this proceeding we can not pass upon the reasonableness of the rates per se, they not being of issue. We only refer to the above proceeding to show the scope of the investigations now under way.

Upon all the facts of record we find that the adjustment complained of has not been shown to subject complainants to any prejudice or disadvantage or any unreasonable difference in rates. The complaint will be dismissed.

ORDER.

Hearings having been held in the above entitled matter, the case having been submitted, a full investigation of the matters and things involved having been had, and basing its order on the findings of fact contained in the opinion which precedes this order;

It is hereby ordered, that the complaint in the above entitled proceedings be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-second day of March, 1922.

DECISION No. 10222.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES GAS AND ELECTRIC CORPORATION FOR AN ORDER AUTHORIZING THE ISSUANCE AND SALE OF ITS SERIES "D" BONDS IN THE AMOUNT OF TWO MILLION DOLLARS PAR VALUE.

Application No. 7631.

Decided March 22, 1922.

Paul Overton, for Applicant.

BENEDICT, Commissioner.

OPINION.

Los Angeles Gas and Electric Corporation asks permission to issue and sell, at not less than 96 per cent of their face value and accrued interest, \$2,000,000 of Series "D" 6 per cent 20-year general and refunding bonds due March 1, 1942, and use the proceeds to reimburse its treasury and finance new construction.

Upon giving ninety days notice, the bonds are callable on March 1, 1932, or on the first day of March of any year thereafter before maturity, upon payment of the principal and accrued interest and a premium, according to the date of redemption as follows: March 1, 1932, ten per centum; March 1, 1933, nine per centum; March 1, 1934, eight per centum; March 1, 1935, seven per centum; March 1, 1936, six per centum; March 1, 1937, five per centum; March 1, 1938, four per centum; March 1, 1939, three per centum; March 1, 1940, two per centum; March 1, 1941, one per centum.

Applicant's general and refunding mortgage is dated March 1, 1921, and secures an issue of \$75,000,000 of bonds, which may from time to time be issued in series, (with respect to each series) to be of such denominations and to be issued and dated at such time and times; to bear such rate of interest; to mature at such time or times and to be subject to redemption and/or conversions on such terms as the Board of Directors of the company may determine as to each series thereof. The company has sold \$7,500,000 of the general and refunding bonds, consisting of \$2,500,000 of 7 per cent Series "A" due March 1, 1926; \$3,500,000 of 7 per cent Series "B" due June 1, 1931, and \$1,500,000 of 7 per cent Series "C" due June 1, 1931.

In Exhibit No. 1 applicant estimates that during 1922 it will have to expend for additions and betterments to its plants and system the sum of \$9,259,070. These expenditures are summarized as follows:

Gas works	\$1,369,997 00
Electric works	1,440,050 00
Gas distributing system	2,583,693 00
Electric distributing system	505,060 00
Miscellaneous	360,360 00
Total	\$9,259,070 00

Though applicant asks permission to issue bonds to reimburse its treasury, the testimony shows that all the proceeds obtained from the sale of the bonds will be used to pay costs incurred in connection with the acquisition and construction of the plant extensions, additions and betterments reported in applicant's Exhibit No. 1.

I herewith submit the following form of order:

ORDER.

Los Angeles Gas and Electric Corporation having applied to the Railroad Commission for permission to issue and sell \$2,000,000 of bonds, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose specified in this order and that the expenditures herein authorized are not reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Los Angeles Gas and Electric Corporation be and it is hereby authorized to issue and sell, for cash, on or before June 30, 1922, at not less than 96 per cent of their face value and accrued interest, \$2,000,000 of Series "D" 6 per cent 20-year general and refunding bonds due March 1, 1942, and use the proceeds to reimburse its treasury because of earnings used to pay for plant additions, extensions and betterments not financed through the sale of bonds and stock and to pay the cost of plant additions, extensions and betterments reported in applicant's Exhibit No. 1. All proceeds used to reimburse applicant's treasury on account of earnings used to pay for plant additions, extensions and betterments shall, after such reimbursement, be used to pay for plant additions, extensions and betterments reported in applicant's Exhibit No. 1.

The authority herein granted is subject to further conditions as follows:

1. Los Angeles Gas and Electric Corporation shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

2. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee amounts to \$1,500.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-second day of March, 1922.

DECISION No. 10223.

IN THE MATTER OF THE APPLICATION OF ASSOCIATED TELEPHONE COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUANCE OF TWO THOUSAND SHARES OF STOCK.

Application No. 7622.

Decided March 22, 1922.

O'Melveny, Milliken and Tuller, by *Stuart O'Melveny*, for Applicant.

BENEDICT, Commissioner.

OPINION.

Associated Telephone Company asks permission to issue and sell, at not less than \$82.50 per share net, 2000 shares (\$200,000) of common stock and use the proceeds to pay the cost of installing telephones and expenses incident thereto and the cost of connecting its new office building in Long Beach with its system.

The Pacific Telephone and Telegraph Company, through its president, George E. McFarland, appeared at the hearing and asked permission to purchase 100 shares of the Associated Telephone Company stock at \$87.50 per share.

Applicant reports in its "Exhibit No. 1" that during the remainder of this year it will have to expend about \$80,000 to take care of the ordinary increase in its business. This estimate is arrived at by taking into consideration the increase in applicant's business during the past fifteen months.

Applicant has entered into a contract covering the purchase of new automatic equipment which will be installed in its new office building in Long Beach, situate at Fifth and Elm streets. It is estimated that the cost of connecting the new office building with applicant's system, exclusive of the money to be paid the Automatic Electric Company under its contract, will amount to \$74,172.19. This cost is made up of the following items:

10,326 feet of 606 pair cable at \$1.147	\$11,843 92
2,398 feet of 404 pair cable at 83 cents	1,990 34
Labor pulling-in and splicing U. G. cable	1,030 00
2,000 feet of 303 pair cable at 65 cents	1,300 00
Labor, pulling-in and splicing aerial cable	117 00
Labor on main frame	2,640 00
Changing cables to new main frame (east office)	512 00
Underground conduit (laid)	5,646 00
Rerouting lines, cables, etc., labor	2,100 00
Rerouting lines, cables, etc., material	1,550 00
Changing P. B. X. switchboards	1,375 00
Labor installing 9500 dials	28,500 00
1000 additional dials, installed	8,000 00
Information desk and miscellaneous	825 00
	<hr/>
Engineering and superintendence	\$67,429 26
	<hr/>
Total	\$74,172 19

Applicant intends to use part of the proceeds obtained from the sale of its stock to pay the foregoing expenditures.

Applicant asks permission to sell its stock at \$82.50 net per share. Taking into consideration applicant's earnings and the rate of dividends which it is paying, I am of the opinion that applicant should receive at least \$85 net per share.

I herewith submit the following form of order:

ORDER.

Associated Telephone Company having applied to the Railroad Commission for permission to issue and sell 2000 shares (\$200,000) of its common stock and The Pacific Telephone and Telegraph Company having asked permission to purchase 100 shares of said stock, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by the Associated Telephone Company and that this application should be granted subject to the conditions of this order;

It is hereby ordered, that Associated Telephone Company be and it is hereby authorized to issue and sell, for cash, at not less than \$85 per share net 2000 shares of its common capital stock, and use the proceeds for the purpose of paying in whole or in part for the plant extensions, additions and betterments described in this application.

It is hereby further ordered, that The Pacific Telephone and Telegraph Company be and it is hereby authorized to purchase 100 shares of the stock which Associated Telephone Company is herein authorized to issue.

The authority herein granted is subject to further conditions as follows:

1. Associated Telephone Company shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

2. The authority herein granted will apply only to such stock as may be issued, sold and delivered on or before December 31, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-second day of March, 1922.

DECISION No. 10224.

IN THE MATTER OF THE APPLICATION OF BAKERSFIELD AND LOS ANGELES FAST FREIGHT COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK.

Application No. 7599.

Decided March 25, 1922.

George Clark, for Applicant.

BY THE COMMISSION.

OPINION.

Bakersfield and Los Angeles Fast Freight Company asks permission to issue \$12,000 of common stock at par to reimburse its treasury on account of earnings used in its business. A hearing was had on this application before Examiner Williams at Los Angeles on March 17th.

Applicant has an authorized stock issue of \$25,000 divided into 250 shares of \$100 each. Stock in the amount of \$5,000 is reported outstanding. Of the outstanding stock, \$2,500 is owned by George M. Duntley; \$1,250 by Earl Smith, and \$1,250 by B. M. Kates.

In Exhibit "A" applicant reports its assets and liabilities as follows:

ASSET ACCOUNTS.

Cash	\$1,862 57
Accounts receivable	1,755 16
Autos and trucks	44,637 74
Office equipment	2,175 46
Deferred charges	508 99
Intangible property-franchises	4,000 00
Total	\$54,939 92

LIABILITY ACCOUNTS.

Accounts payable	\$4,048 53
Notes payable	8,728 18
Leased contracts	14,258 27
Reserves for depreciation	10,658 47
Stock outstanding	5,000 00
Surplus	12,246 47
Total	\$54,939 92

The company's gross operating revenues for 1921 are reported at \$92,863.52. Its operating expenses, taxes, depreciation, interest and other charges amounted to \$82,673.54, leaving a surplus amounting to \$10,189.98 for 1921. The surplus up to December 31, 1920, is reported at \$2,056.49, which added to the \$10,189.98 makes an accumulated surplus of \$12,246.47 on December 31, 1921.

The record shows that all of this surplus has been invested in applicant's business.

It is applicant's intention to distribute the stock, if this application is granted, for the purpose of paying salaries and dividends. The

salaries due officers and not paid, amount to \$7,920. Instead of paying these salaries, which are for 1921, applicant has invested earnings sufficient to pay them, in its business. The stock which will be issued by applicant pursuant to the authority herein granted, will be distributed to applicant's present stockholders and held by them in the same proportion as they now own stock of the company.

Stock in the amount of \$6,000 will be delivered to George M. Duntley; stock in the amount of \$3,000 to Earl Smith; and stock in the amount of \$3,000 to B. M. Kates.

ORDER.

Bakersfield and Los Angeles Fast Freight Company, having applied to the Railroad Commission for permission to issue \$12,000 of stock for the purpose of reimbursing its treasury on account of earnings invested in its business, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue, is reasonably required by applicant;

It is hereby ordered, that Bakersfield and Los Angeles Fast Freight Company be and it is hereby authorized to issue and sell at not less than par on or before June 30, 1922, common stock in the amount of not exceeding \$12,000 par value for the purpose of reimbursing its treasury on account of earnings used to pay for truck equipment and other properties.

The authority herein granted is subject to further conditions as follows:

1. After the reimbursement of applicant's treasury through the issue of the \$12,000 of stock, said stock may be distributed to applicant's officers and stockholders in payment of salaries and dividends.

2. Bakersfield and Los Angeles Fast Freight Company shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this twenty-fifth day of March, 1922.

DECISION No. 10241.

IN THE MATTER OF THE APPLICATION OF THEO. W. BOSE, FLAKE L. SMITH, ROBERT GERWING AND J. SEBASTIAN, FOR AN ORDER DECLARING THE PUMPING PLANT OF C. J. KLATT A PUBLIC UTILITY, AND FOR FIXING RATES FOR USE OF WATER THEREFROM FOR IRRIGATING PURPOSES, AND PRESCRIBING THE MANNER AND USE OF WATER THEREFROM TO APPLICANTS, AND FOR CONTROL THEREOF BY THE RAILROAD COMMISSION, AND FOR ALL PROPER RELIEF WITH RESPECT THERETO.

Application No. 7450.

Decided March 27, 1922.

SERVICE—WATER UTILITY—CHANGE OF LOCATION.—It is held that the obligation to render service can not be avoided through change in location or equipment of plant at the option of the owner.

RATES, NON-COMPENSATORY—REMEDY.—It is pointed out that where service to the public proves non-compensatory, the remedy lies in application to the Commission for authority to increase rates.

West and Buck, by L. A. West, for Applicants.

Scarborough, Forgy and Reinhaus, by S. M. Reinhaus, for C. J. Klatt.

BY THE COMMISSION.

OPINION.

Applicants herein are a group of ranchers located in Orange County, near Santa Ana. They allege in effect that for several years past they have purchased water for the irrigation of their lands from a well and pumping plant located upon the property of C. J. Klatt, who now refuses to supply applicants with water for such use. The Commission is therefore asked to declare this pumping plant a public utility, to compel the continuation of the service, and for all other proper relief.

A public hearing in this matter was held before Examiner Williams, at Santa Ana, at which time a motion for the dismissal of the application was made upon the ground, among others, that the matter should have been brought before the Commission in the form of a complaint instead of in the form of an application, and that respondent Klatt was served merely with a notice of the hearing and not with a copy of the application, as is provided by law. The motion for dismissal was received, judgment reserved for the Commission, testimony was taken and the matter submitted upon briefs, which have now been filed by both parties hereto.

Testimony shows that respondent herein received notice of the hearing and a copy of the application at least ten days previous to the hearing, was fully advised of the matters in controversy, and was present in person and was represented by counsel at the hearing. It does not therefore appear that respondent has suffered injury, especially in view of the fact that testimony was confined solely to the question of the public utility status of respondent and his water system. The motion for dismissal is therefore denied.

It appears that in the year 1900, or thereabouts, H. S. Pankey acquired a tract of land of about twenty-two and one-half acres in the vicinity of Santa Ana, drilled a well thereon, and installed a pumping plant. Having developed a greater water supply than was required for the irrigation of his own lands, he proceeded to sell water to neighboring ranchers. All requests for service were granted by Mr. Pankey, and testimony also shows that, in one instance at least, Mr. Pankey advised the owner of adjoining land to set out an orchard and assured him that he could depend upon the Pankey plant for the water required for irrigation.

In 1919 H. S. Pankey transferred the land, including pumping plant and well, to J. H. Pankey and others, who continued the service to the neighboring ranchers in the same manner as in the past.

In 1920 the entire property was transferred to the respondent, C. J. Klatt, who likewise continued service, without interruption, until about August, 1921, when respondent installed a new well and pumping plant and notified the users of water that service would be discontinued to all those who did not purchase an interest in the new system. At the time service was discontinued about 33 acres were being supplied, in addition to the 22 acres owned by respondent Klatt. In order to avoid damage to those who had received water from the old plant, service was temporarily furnished upon a stipulation that such continuation of service would not prejudice respondent's claim that he was not operating a public utility.

The old well, which had an estimated capacity of from 30 to 35 inches, was 10 inches in diameter and 60 feet deep. The new plant, which is located about 25 feet distant from the old, consists of a 12-inch well, 386 feet deep, and a No. 12 Layne-Bowler pump driven by a 20-horsepower electric motor. The new plant delivers about 70 inches of water. The rate paid for water service, previous to the transfer to respondent, was 60 cents per hour operation of the pump. This rate was raised to 85 cents per hour by respondent previous to the construction of the new plant. By stipulation of all parties hereto the rate now charged is \$1.50 per hour.

The record clearly shows that the original owner furnished water to other ranchers for compensation; that no applicants were ever refused service; and that all water desired by consumers was supplied to them. It was further shown that the relation between buyer and seller of water was entered into with an apparent understanding that such relations would continue. Water was supplied upon application by consumers in the order in which the applications were received, and this method does not thereby differ from the usual practice followed on systems of this type. Furthermore, it was not shown that any consumer was deprived of water or was subjected to undue delay because

of the claim that only surplus water was sold or that the use of water by purchasers was through a right which was inferior or secondary to the right of the owner of the plant.

The claim that no profit was made through sales of water is not a material matter. It frequently happens that admitted public utilities make application to this Commission for increased rates, alleging that their revenues are insufficient to pay operating expenses.

It is further apparent that the obligation to render service cannot be avoided through changes in location or equipment of the plant at the option of the owner. Once assumed, the obligations to serve the public continue until this Commission has acted favorably upon an application for authority to discontinue service. Should the service to the public prove non-compensatory the remedy lies in an application to this Commission for authority to increase rates.

The only written agreement of record in this matter is one dated October 18, 1917, between J. H. Pankey, party of the first part, and Myra E. Holderman, party of the second part. This agreement grants second party the right to purchase water from the pumping plant of first party for the irrigation of seven acres of land at the same rate per hour as is paid by other parties in the same locality who purchase water from the plant. The agreement also provides that water is to be distributed among the various users of the plant in the same manner as heretofore. A further provision is as follows:

It being further agreed and understood that should the water in said well become insufficient to justify pumping, that first party shall not be required to furnish water for said seven acres until such time as water in said well shall increase to a point where a reasonable amount can be pumped therefrom or said first party shall have developed another well on the same premises. It being further agreed and understood that second party shall, in the event she disposes of the above described seven acres, have the privilege of transferring to the purchaser the right to purchase water under the same terms as above set forth.

This agreement is signed by H. S. Pankey, J. H. Pankey and Myra E. Holderman. The seven-acre tract was afterward transferred to one Burr Talbert and subsequently by Talbert to Theo. W. Rose, one of the applicants herein.

Nothing contained in the foregoing agreement can be construed to mean that water was furnished as an accommodation, or as a neighborly act, or that the right granted was for surplus water and was inferior or secondary to the right of the owner of the plant. The possibility that another well might be required was distinctly recognized and it was provided that should the second well be developed the supply of water would be continued. It is obvious, if the intention was to sell only surplus water or to sell water only as an accommodation or as a neighborly act, that such intention would have been clearly stated.

A careful consideration of the evidence leads to the conclusion that the proprietor of the original plant willingly assumed the obligation of serving the public; that this obligation was transferred to the respondent herein when the property was purchased by him; and that service to applicants should be resumed.

As no evidence regarding proper rates to be charged for the service rendered was introduced, such rates as were fixed by stipulation at the hearing in this matter on January 26, 1922, will be held as reasonable rates until such time as they are changed through proper procedure before this Commission.

No testimony was offered to show that any consumer had suffered damage or undue delay through the methods of deliveries in effect on this system. On the other hand, testimony shows that consumers secured water practically at any time they desired to irrigate. It will therefore be unnecessary to specify any manner or order of deliveries of water.

ORDER.

Theo. W. Bose, Flake L. Smith, Robert Gerwing and J. Sebastian, having made application as entitled above, a public hearing having been held thereon, briefs having been filed, the matter having been submitted, and the Commission being fully advised in the matter:

It is hereby found as a fact that the water system operated by C. J. Klatt, in the vicinity of Santa Ana, Orange County, is a public utility subject to the jurisdiction of the Railroad Commission of the State of California.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that C. J. Klatt be and he is hereby directed to resume service of water for irrigation use to such persons as were formerly served by the pumping plant located upon the property of said C. J. Klatt, and who in the future may demand such service.

It is hereby further ordered, that C. J. Klatt be and he is hereby directed to file with this Commission, within twenty (20) days from the date of this order, a schedule setting forth the rates at which water is supplied to consumers, also rules and regulations to govern relations with consumers.

Dated at San Francisco, California, this twenty-seventh day of March, 1922.

DECISION No. 10242.

IN THE MATTER OF THE APPLICATION OF CITY WATER COMPANY
OF OCEAN PARK FOR AUTHORITY TO INCREASE ITS RATES FOR
WATER SUPPLIED TO THE INHABITANTS OF THE CITY OF
VENICE AND CONTIGUOUS TERRITORY.

Application No. 7100.

Decided March 27, 1922.

Le Roy M. Edwards, for Applicant.
Ann Zaun, for industrial district.
G. P. Batten, in propria persona.
Charles W. Lyon and *E. A. Garety*, for City of Venice.
George Walters, for certain consumers.

BY THE COMMISSION.

OPINION.

In this proceeding the City Water Company of Ocean Park asks authority to increase the rates charged for water delivered to consumers in and in the vicinity of Ocean Park and Venice, Los Angeles County. The application alleges in effect that the present rates, which were established by Ordinance No. 569 of the city of Venice in 1915, do not produce sufficient revenue to yield a reasonable return upon the investment in the property. It is further alleged that at the time the present rates were established the costs of both material and labor were much lower than at the present time. The Commission is therefore asked that authority be granted for such increase in rates as is necessary to yield a reasonable return upon the investment.

A public hearing in this matter was held before Examiner Williams at Venice. All interested parties were duly notified and were given an opportunity to be present and to be heard.

The water supply is secured from four wells, of 15 and 18 inches diameter and from 100 to 250 feet deep, equipped with electrically-operated deep-well pumps. The water is lifted from the wells into a concrete settling basin and reservoir and from the reservoir is then pumped into the mains by means of a booster plant. The transmission and distribution system consists of approximately 166,000 feet of pipe ranging from 1½ to 10 inches in diameter, of which 43,600 feet is cast-iron. Approximately 2,200 consumers are served, of whom about 1,300 are on metered services.

The present rates charged for water delivered to consumers may be briefed as follows:

METER RATES.

From 0 to 2000 cubic feet, per 100 cubic feet -----	\$0 15
Over 2000 cubic feet, per 100 cubic feet -----	10
Monthly minimum charge -----	1 50

MUNICIPAL RATES.

For water used through hydrants for fire fighting purposes, for each fire hydrant connected to mains of 4 inches diameter or larger-----	25
---	----

FLAT RATES.

An involved schedule of flat rate charges is in effect, a few of the charges being as follows:

For tenements occupied by a single family of not more than 3 persons, per month -----	1 00
For tenements occupied by a single family of 4 persons, per month ----	1 25
For tenements occupied by a single family of 5 persons, per month----	1 50
For tenements occupied by a single family of more than 5 persons, for each additional person over five -----	10
For bath tubs in residences, per month -----	25
For toilets in residences, per month -----	25
For stores, warehouses, butcher shops, halls, photograph galleries, printing offices, markets, book binderies, blacksmith shops, per month -----	1 00
(Owing to the great length of the flat rate schedule other charges are omitted.)	

Mr. James E. Barker, on behalf of applicant, presented an appraisal of the water system, as of June 1, 1921, based upon historical cost, amounting to \$247,164.57 for operative property. Depreciation annuity, calculated by the sinking fund method, was given as \$7,024.22. Applicant also presented an exhibit which purported to show that revenues would have to be increased \$21,341.71 in order to cover maintenance and operating expense and depreciation annuity, and to provide an 8 per cent return upon an investment of \$247,164.57.

Mr. F. H. Van Hoesen, one of the Commission's hydraulic engineers, presented a report, based upon an investigation of the system, which set forth an estimated original cost of the operative property amounting to \$209,191; depreciation annuity, calculated by the sinking fund method, was given as \$5,219; and an estimate of reasonable maintenance and operating expense for the future was shown as \$35,038.

Testimony shows that certain items of capital expenditure may reasonably be added to the foregoing estimate of original cost, bringing the total to \$218,000. It was also shown that an installation of larger sized mains and other facilities is required to adequately supply consumers, and that this installation will be made during the year 1922 at an estimated cost of \$20,000. A careful consideration of all the evidence leads to the conclusion that the sum of \$238,000 is a reasonable total to be used as a rate base for the purpose of this proceeding.

Testimony also shows that the soil in this locality has an unusually deteriorating effect upon pipe, and that the presence of very fine sand in the water causes pumping equipment to wear out in a very few years. It is evident therefore that the lives ordinarily assigned to structures on other water systems cannot be employed in this instance. An allowance of \$7.100 per year for depreciation annuity is reasonable and should be made.

Mr. Van Hoesen's estimate of maintenance and operating expense for the future, amounting to \$35,038, is reasonable and will be allowed.

Annual charges, based upon the foregoing items, are as follows:

Return at 8 per cent upon \$238,000 -----	\$19,040 00
Depreciation annuity -----	7,100 00
Maintenance and operating expense -----	35,038 00
Total -----	\$61,178 00

Operating revenues for the year 1919 were \$40,891; for 1920 were \$45,567; and for the first eleven months of 1921 were \$53,483. It appears, however, that the 1921 revenues include \$3,095 received from the sales of water to the city of Santa Monica and that no revenue from this source can be expected in the future. It is believed that the normal revenue for the entire year 1921 will be not far from \$55,000.

A comparison of the foregoing revenues and annual charges indicates that some increase in rates is justified. However, a study of the revenues received during the past few years shows a steady increase in the business of the utility and it is extremely probable that a further increase will occur in the future. In view of these conditions and the fact that the present schedule of rates is obviously poorly designed, it appears that the necessary increase in revenues should be secured by an adjustment and modification of the present schedule rather than through a flat increase in rates. The schedule of rates set out in the accompanying order is therefore designed to do substantial justice to both the utility and the consumer, is established after a careful consideration of all pertinent evidence, and is intended to equitably distribute the cost of water among all classes of consumers. It is estimated that the schedule of rates so established will yield sufficient revenue to cover maintenance and operating expense, depreciation annuity and a reasonable return upon the investment.

ORDER.

City Water Company of Ocean Park, having made application as entitled above, a public hearing having been held thereon, and the matter having been submitted,

It is hereby found as a fact that the rates now charged by City Water Company of Ocean Park, for water delivered to consumers in and in the vicinity of Venice, Los Angeles County, are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the foregoing opinion;

It is hereby ordered, that City Water Company of Ocean Park be and the same is hereby authorized and directed to file with this Commission, within twenty (20) days from the date of this order, the following schedule of rates to be charged consumers, effective for all water

delivered subsequent to April 30, 1922, or the meter reading period next preceding that date:

MONTHLY METER RATES.

From 0 to 500 cubic feet, per 100 cubic feet -----	\$0 26
From 500 to 1000 cubic feet, per 100 cubic feet -----	20
From 1000 to 5000 cubic feet, per 100 cubic feet -----	15
Over 5000 cubic feet, per 100 cubic feet -----	10

MONTHLY MINIMUM CHARGES.

For $\frac{5}{8}$ -inch meter -----	1 25
For $\frac{3}{4}$ -inch meter -----	1 75
For 1-inch meter -----	2 50
For 1 $\frac{1}{4}$ -inch meter -----	3 50
For 2-inch meter -----	5 00
For 3-inch meter -----	7 50
For 4-inch meter -----	10 00
For 6-inch meter -----	15 00

MONTHLY FLAT RATE CHARGES.

1. For residences of three rooms or less:-----	\$1 00
For each additional room, either in residence or detached buildings---	10
For each bathtub -----	25
For each toilet -----	25
For each private garage, with not more than one automobile-----	25
For each additional automobile -----	15
2. For apartment or flat buildings, when served through a single service:	
For each living room, bedroom, kitchen or kitchenette -----	15
For each bathtub or shower bath, used by occupants of separate apartments -----	25
For each toilet, used by occupants of separate apartments-----	25
For each public bathtub or shower bath-----	1 00
For each public toilet -----	1 00
For each public urinal -----	50
For each garage, with not more than one automobile-----	25
For each additional automobile -----	15
3. For hotels or lodging houses:	
For each room without running water-----	15
For each room with running water -----	25
For each bathtub or shower bath, for use of occupants of not more than 2 rooms -----	25
For each toilet for use of occupants of not more than 2 rooms-----	25
For each public bathtub or shower bath-----	1 00
For each public toilet -----	1 00
For each public urinal -----	50
4. For restaurants, eating houses or public dining rooms:	
For each unit of seating capacity -----	10
5. For public garages, with not more than 6 automobiles-----	2 50
For each additional automobile -----	25
For each toilet -----	1 00
For each urinal -----	50
6. For barber shops:	
Not more than two chairs -----	1 50
For each additional chair -----	50
For each bathtub or shower bath -----	1 00
For each toilet -----	1 00
7. For bathing establishments:	
For each bathtub or shower bath -----	1 00
For each toilet -----	1 00
For each urinal -----	50
8. For banks, professional offices, billiard parlors, fraternal halls, club-rooms, churches, plumbing shops and shops or stores not otherwise listed -----	1 00
9. For drug stores, dental offices and photograph galleries-----	2 50

10. For bottling works, creameries, slaughter houses and laundries.....	\$5 00
11. For blacksmith shops, machine shops, lumber yards, printing offices, bakeries, undertaking parlors, warehouses, grocery stores, butcher shops and large stores	2 00
12. For theaters:	
Base rate	1 50
For each toilet	1 00
For each urinal	1 00
13. For soda fountains, ice cream parlors, or soft drink establishments, either alone or in connection with other business.....	2 50
14. For office buildings:	
For each office room with running water	50
For each toilet	1 00
For each urinal	50
15. For public drinking fountain	1 00
16. For sprinkling or irrigation of lawns, gardens, shrubbery, etc., for each square yard actually irrigated	005
17. For building work:	
For mortar and to dampen 1000 bricks	15
For cement work, per barrel	10
For plastering, per 100 square yards	40
18. For steam boilers:	
According to size	\$2.00 to 5 00
19. For barns, including one horse or cow	25
For each additional horse or cow	15
20. For all uses not specified above, the meter rates are to be charged.	
21. Meters may be installed upon any service at the option of the consumer or the utility.	

MUNICIPAL RATES.

For fire hydrants:	
Two-way fire hydrants, connected to mains of 4 inches diameter or larger, per month	1 00
One-way fire hydrant, connected to mains of 4 inches diameter or larger, per month	75
All other fire hydrants, per month	50
All other municipal use to be charged for at the meter rate.	

It is hereby further ordered, that City Water Company of Ocean Park be and the same is hereby directed to file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern relations with its consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this twenty-seventh day of March, 1922.

DECISION No. 10243.

L. LUCILLE STEINMETZ

vs.

IMPERIAL UTILITIES CORPORATION.

Case No. 1694.

Decided March 27, 1922.

Thomas A. Berkefic, for Complainants, City of Monterey Park, Wilmar Chamber of Commerce and Monterey Park Chamber of Commerce.
Benjamin W. Shipman, for Ramona Acres and Wilmar Chamber of Commerce.
L. M. Chapman, for Defendant.

BY THE COMMISSION.

OPINION.

This is a complaint against the reasonableness of the rates charged by Imperial Utilities Corporation, which operates a public utility water system in and in the vicinity of Monterey Park, Los Angeles County.

The complaint alleges that the rate established by this Commission in its Decision No. 6940, dated May 6, 1921, has been found to be prohibitive and a burden to the consumers in that the minimum charge and the minimum usage permitted have created excessive rentals for the service received. The Commission is therefore asked to investigate the matter and grant the necessary relief.

A public hearing in this matter was held at Los Angeles, before Examiner Williams.

Prior to August 24, 1920, the rates in effect on this system were as follows:

For service through a $\frac{3}{4}$ -inch meter, a minimum rate of \$1.50 for 1750 cubic feet or less per month.
 From 1750 to 3000 cubic feet, \$0.085 per 100 cubic feet.
 Over 3000 cubic feet, \$0.05 per 100 cubic feet.

Good cause having been shown, the Commission, by Decision No. 7985, granted defendant herein a temporary emergency surcharge of twenty-five per cent to apply upon all bills rendered subsequent to August 24, 1920.

The rates now in effect were fixed by the Commission by Decision No. 8940 dated May 6, 1921, in Application No. 6033, entitled: "*In the Matter of the Application of H. N. Siegfried as receiver of Imperial Utilities Corporation for authority to increase rates.*" These rates are as follows:

MONTHLY MINIMUM CHARGES.

$\frac{3}{4}$ -inch meter	-----	\$1 25
$\frac{1}{2}$ -inch meter	-----	1 50
1-inch meter	-----	2 00
1 $\frac{1}{2}$ -inch meter	-----	2 75
2-inch meter	-----	3 50
3-inch meter	-----	5 00

MONTHLY METER CHARGES.

From 0 to 500 cubic feet, per 100 cubic feet	-----	\$0 25
From 500 to 1000 cubic feet, per 100 cubic feet	-----	20
From 1000 to 5000 cubic feet, per 100 cubic feet	-----	15
Over 5000 cubic feet, per 100 cubic feet	-----	10

The system serves approximately 1200 consumers, about 90 per cent of whom are metered, the remainder being served at flat rates based upon a charge of \$1.50 per month for a house of five rooms or less with toilet and bath.

The principal objection on the part of complainants to the present rates is because of the fact that the monthly minimum charge of \$1.25 allows the use of only 500 cubic feet of water, whereas the former rate

of \$1.50 permitted the use of 1750 cubic feet, the result being, according to complainants, that their bills for water consumed have increased to an unreasonable extent.

The evidence shows that the majority of those who testified owned or resided upon tracts of land varying from one-half to three acres in area, upon which citrus or deciduous fruit trees or vegetables are grown. This class of users undoubtedly requires more water than is used for ordinary domestic and lawn service.

Tabulations of water use introduced at the hearing indicated that 32 per cent of all consumers used less than 500 cubic feet per month during the year ending July 1, 1919. For the year ending July 1, 1920, this percentage was 40, and for the calendar year 1921 was 36 per cent. It is evident, from the large portion of consumers who use less than 500 cubic feet per month, that any increase in the monthly minimum charge would result in placing an unfair burden upon a large number of consumers of small quantities of water, by compelling them to pay for part of the water used by those who irrigate small orchards or large lawns or gardens.

Mr. M. R. MacKall, one of the Commission's hydraulic engineers, presented a report covering an investigation of the system, in which the estimated original cost of the system was given as \$167,046. This report also showed a depreciation annuity, calculated by the sinking fund method, of \$3,376. Reasonable maintenance and operating expense was set out as \$19,061 per year.

Annual charges, based upon the foregoing items, are as follows:

Return at 8 per cent upon \$167,046	\$13,364 00
Depreciation annuity	3,376 00
Maintenance and operating expense	19,061 00
Total.....	\$35,801 00

Revenues for the year 1921 were \$34,592, or \$1,209 less than the foregoing annual charges. It appears, therefore, that the utility did not in 1921 receive an unreasonable return.

Testimony indicates that the service rendered by this utility in the past has at times been inadequate. These conditions have, however, been so greatly improved that there is now very little cause for complaint.

Complaint was also made that at times the water delivered contained oil and was unfit for use. This condition evidently resulted from leakage from a pump into the well. As this pump has been replaced it is improbable that this condition will continue.

The evidence presented shows that certain of the distribution mains are in a leaky condition and that there is some loss of water as a result.

The utility should, therefore, make all necessary repairs to its pipe lines and thereafter maintain them in good order and condition.

ORDER.

Complaint having been made against the rates charged by Imperial Utilities Corporation as entitled above, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that the rates now charged by Imperial Utilities Corporation for water delivered to consumers in Monterey Park and vicinity, Los Angeles County, are not unreasonable or exorbitant.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that the complaint herein be and the same is hereby dismissed.

Dated at San Francisco, California, this twenty-seventh day of March, 1922.

DECISION No. 10250.

SISKIYOU TELEPHONE COMPANY

vs.

FESTUS N. PAYNE AND THE PLOWMAN VALLEY TELEPHONE
ASSOCIATION.

Case No. 1427.

Decided March 27, 1922.

TELEPHONE UTILITY—MUTUAL COMPANY—CONNECTION.—It is held that a mutual company is not under the jurisdiction of the Commission, but a mutual company can not maintain connection with a public utility telephone company without payment of the latter's established rates and complying with its rules and regulations.

CERTIFICATE—EXTENSION.—Before a utility may extend service into territory already served by another public utility of like character it must obtain from the Commission a certificate of public convenience and necessity.

LINES, UNLAWFUL USE OF—JURISDICTION.—It is held that any claim complainant may have against the unlawful use of its lines is not within the jurisdiction of the Commission.

Taylor and Tebbe, by *Geo. A. Tebbe*, for Complainant.
Horace V. Lay, for Defendants.

BY THE COMMISSION.

OPINION.

Complainant in this proceeding is a public utility owning and operating a telephone system throughout portions of Siskiyou County. Its principal telephone exchange is in the town of Etna Mills from which point it owns and operates a toll line extending to the town of Callahan, a distance of approximately 13 miles. It also operates subscribers lines extending in the general direction of Callahan, serving subscribers

between the two towns from its Etna Mills exchange. Subscribers who are served by the latter lines from Etna Mills pay defendant's established rate which, at the time of this proceeding, is \$1 per month, for service at Etna Mills. Defendant, Festus N. Payne, is one of these subscribers. Defendant, Plowman Valley Telephone Association, also known as Callahan Farmers Telephone Association, owns a telephone line which it constructed during or about the year 1912. Its line extends from the town of Gazelle to Etna Mills by way of Callahan and intermediate territory. Between Etna Mills and Callahan it extends through the same general territory in which complainant's subscribers lines above referred to are operated. Although it makes no charge for the use of its line, except to the extent hereafter referred to, it permits its use by the public.

The complaint sets forth in effect that defendant Payne maintains in his residence, about eight miles from Etna Mills, telephone connection with the Etna Mills exchange for which he pays complainant's established subscribers rate; that this connection is over complainant's line known as the Scott Valley line; that complainant's line known as the French Creek line is also connected into defendant's residence; that the line owned by defendant, Plowman Valley Telephone Association, is also connected into the residence of defendant Payne; that there is also maintained in the residence of said defendant Payne a switch by the operation of which the line owned by defendant, Plowman Valley Telephone Association, may be connected with complainant's lines in defendant Payne's residence and, through them, with complainant's entire telephone system; that by the use of said switch the defendant, Plowman Valley Telephone Association, and its various members are in a position to make use of complainant's lines and system without payment therefor; that the line of defendant, Plowman Valley Telephone Association, has one station in Etna Mills and several stations at Callahan connected to it; that it is available for use without charge to the general public, and that it destroys the business of the general public that complainant would otherwise obtain. The complaint prays that the Payne switch be abolished and that the Plowman Valley Telephone Association be denied the right to maintain any station or telephone within one mile of Etna Mills, Callahan or Gazelle. Each of the defendants has filed formal answer entering general denial of some of the allegations set forth in the complaint and admitting others of the allegations.

A public hearing was held in Yreka on October 4, 1921, before Examiner Satterwhite.

From the testimony it appears to have been the intent of defendant, Callahan Farmers Telephone Association, referred to in this complaint as Plowman Valley Telephone Association, when it was organized

and at the time when its telephone line was constructed, that it should operate as a mutual association rather than as a public utility and that it does not now desire to operate as a public utility. If it is in fact a mutual association it is not within the jurisdiction of the Railroad Commission. If such is the fact, however, it has not the right to demand connection or to maintain any means by which connection may be had with any lines connecting with complainant's system, except upon compliance with such reasonable rules and regulations as may be established governing such connection and upon the payment of complainant's established rates for the service thus provided over complainant's system. The testimony shows that the organizers of this association were offered connection with complainant's system at the time when their line was constructed, upon condition that they pay the rate applicable thereto, but that they refused to pay the rate. It shows further not only that it is possible by the use of the switch located in the residence of defendant Payne to connect the association's line with complainant's lines, but that the switch was installed for the specific purpose of enabling its members to communicate with persons connected with the two lines herein referred to as the Scott Valley and French Creek lines, both of which connect with complainant's Etna Mills exchange.

Complainant has in effect a 10 cent local switching rate for local calls placed at its local offices by nonsubscribers. Defendant, Plowman Valley Telephone Association, while it has refused to pay complainant's established rate applicable in such cases for connection of its line with complainant's lines, states that it has offered to pay the local switching rate for such connection, but that complainant is unwilling to agree to this method of payment. Complainant's subscribers pay flat monthly rates for local exchange service limited to the exchange with which their lines connect. For all messages to points outside the local exchange toll rates are collected. Defendant's line extends to Etna Mills, Callahan and Gazelle, and its members are able to call any or all of these points directly. The connection of defendant's line, subject to the collection of this 10 cent switching charge, unless similar service and rates were made effective for all of complainant's subscribers, would result in discrimination and complainant's toll line between Etna Mills and Callahan would be rendered useless for toll business. Furthermore, complainant's lines do not now extend to Gazelle, this point now being served by the lines of another utility of like character. A connection of complainant's lines with defendant's line, unless defendant's connection at Gazelle were discontinued, would in effect constitute an extension of service into territory already served by another public utility of like character. Before this may be done it will be

necessary that complainant apply for and obtain from the Railroad Commission a certificate declaring that public convenience and necessity require it.

With reference to complainant's claim that the association's line is available for public use without charge, resulting in damage to complainant's business: Defendants admit that the use of this line by the public is permitted, but urge that business comes to complainant's lines as a result of such use which complainant would not obtain were the line not in existence and, that complainant's business is not injured but is rather benefited thereby. It is no doubt a fact, as appears from the testimony, that messages requiring the use of complainant's toll lines, for which use complainant's toll charges have been collected, have been transmitted by means of the Payne switch or repeated to and from complainant's lines. It is also no doubt a fact, as further appears from the testimony, that messages between Etna Mills and Callahan, which otherwise would of necessity pass over complainant's toll line between these points and for which complainant would collect a toll charge, now pass over the association's line between the Payne residence and Callahan. In this respect and to this extent it is obvious that complainant's business is injured.

With respect to the question as to whether the line of Callahan Farmers Telephone Association is operating as a public utility, while the testimony shows that certain fixed charges are uniformly collected from its members to pay the expense of operating one of its switching stations, it appears that no charge is collected for the use of the line by the public, except that certain charges for such use have been collected at Gazelle. The charges thus collected at Gazelle, however, appear not to have been authorized by the association. As previously stated, it was not the intent, when the association was organized, and it is not now its desire to operate its line as a public utility. It does not appear to be necessary, in order to dispose of this case, to determine this question. It is of course true that if, in the event of this question being determined, it were found that the association is operating as a mutual association, the Commission could not require the removal of its stations from Etna Mills, Callahan and Gazelle. In that event, however, the Commission could and it will insist that any and all means by which its line can or may be connected with the lines or system operated by complainant be discontinued, except upon condition that the association or its members pay to complainant its established rates for the service thus provided.

According to the testimony, complainant has billed defendant Payne for certain calls to Etna Mills, originated at stations on the Plowman Valley line and transferred through the Payne switching station, at

the rate applicable to Etna Mills-Callahan toll calls. This appears to have been done to prevent the unauthorized free use of complainant's lines by nonsubscribers and on the theory that its Etna Mills-Callahan toll line should have been used for the purpose. Any claim which complainant may have against the unlawful use of its lines in such cases is not within the jurisdiction of this Commission to determine. The toll rates which it is authorized under the provisions of the Public Utilities Act and the orders of this Commission to charge and collect apply only to the actual use of its toll lines. Since its toll lines were not used in this case and since there has been no rate authorized by this Commission for the use of complainant's local lines in such cases the Commission can not take cognizance of the matter.

Not only should the switching device now in use in defendant's residence for the purpose of transferring calls between complainant's lines and the line of defendant, Callahan Farmers Telephone Association, and by means of which the said lines may be physically interconnected, be removed and permanently discontinued, but interconnection between the two lines referred to as the Scott Valley and French Creek lines should also be discontinued. In the event of the failure or refusal of defendants to remove and discontinue it complainant should be authorized and directed to disconnect any and all lines having connection therewith from its system.

ORDER.

Complaint in the above entitled proceeding having been filed with the Railroad Commission, a public hearing having been held, the case having been submitted and being now ready for decision;

It is hereby ordered, that defendant, Festus N. Payne, shall at once disconnect and remove from any line or lines located in or upon his premises in Siskiyou County and shall not hereafter connect thereto, any telephone, switch or switching device, by means of which telephone conversations or messages may be transmitted or repeated between the telephone lines or system of Siskiyou Telephone Company and any line or lines not connected therewith, or by means of which any line or lines so located and not connected with the telephone lines or system of Siskiyou Telephone Company may be interconnected therewith, or by means of which any line or lines which are or may be connected with the lines or system of Siskiyou Telephone Company may be interconnected with any other line or lines which are or may be connected with the lines or system of Siskiyou Telephone Company, and shall, upon demand therefor, furnish such evidence that the provisions hereof have been fully complied with as may from time to time be required by the Railroad Commission;

And it is hereby further ordered, in the event that any of the provisions hereinbefore set forth shall not have been fully complied with, that Siskiyou Telephone Company be and it is hereby authorized and directed, within fifteen (15) days from the date of this order, to serve written notice of its intention so to do to each of its subscribers connected with the line or lines to be affected thereby and after ten (10) days from the service of said notice to disconnect from its telephone system any line or lines to which any telephone, switch or switching device may be connected in violation of any of the provisions herein set forth; provided, that Siskiyou Telephone Company shall, within a reasonable time after application therefor, provide service to and for the said Festus N. Payne and Callahan Farmers Telephone Association and its members, defendants herein, subject to the terms and conditions following, to wit:

1. Before the telephone line of Callahan Farmers Telephone Association shall be connected with the telephone lines or system of Siskiyou Telephone Company, it shall be cut or divided at such point or points and in such manner that no portion or unit thereof shall have direct connection at more than one telephone exchange or other office or agency of Siskiyou Telephone Company, except that in any case in which continuous twenty-four (24) hour service is not maintained by Siskiyou Telephone Company at its telephone exchange or other office or agency with which the direct connection herein referred to may be made, a night connection with the toll lines of Siskiyou Telephone Company may be made for emergency service during the hours when its telephone exchange or other office or agency may be closed; provided, however, that separate portions or units of said telephone line may have direct connection at any single telephone exchange or other office or agency of Siskiyou Telephone Company adjacent or contiguous thereto. The point or points at which said telephone line shall be cut or divided shall be such that direct connection shall not be provided with any telephone exchange or other office or agency of Siskiyou Telephone Company or with any telephone exchange or other office or agency of any other telephone company operating as a public utility within the territory affected, when such direct connection, by reason of the location of the person or persons to be served thereby, should properly be provided from a different telephone exchange or other office or agency of Siskiyou Telephone Company or other telephone company.

2. No connection shall be made between the lines or system of Siskiyou Telephone Company and any line or lines of Callahan Farmers Telephone Association located within any territory theretofore served by a public utility of like character, except as provided in section 50a of the Public Utilities Act of this state.

3. Siskiyou Telephone Company shall not be required to provide connection between its lines or system and any line or lines of Callahan Farmers Telephone Association, except under the rules and regulations and subject to the rates applicable in other cases for similar service.

4. In the event that any line or lines may be disconnected by Siskiyou Telephone Company from its telephone system for violation of any of the provisions of this order, as hereinabove provided, it shall refund to such person or persons so disconnected, and from whom advance payments for service have been theretofore collected, an amount or amounts equal to the difference between the amount or amounts of such advance payments and the amount or amounts chargeable at duly authorized rates for the service actually rendered; and in the event of such disconnection of service Siskiyou Telephone Company shall not reestablish connection or restore service unless or until the provisions of this order shall have been fully complied with and except under the rules and regulations and subject to the rates hereinabove provided for in paragraph three (3) hereof.

And it is hereby further ordered, that, except as to the matters hereinabove specifically provided for, the complaint herein be and it is hereby dismissed.

Dated at San Francisco, California, this twenty-seventh day of March, 1922.

DECISION No. 10251.

IN THE MATTER OF THE APPLICATION OF HEMET TOWN WATER COMPANY, A CALIFORNIA CORPORATION, FOR AUTHORITY TO INCREASE WATER RATES.

Application No. 7089.

Decided March 27, 1922.

RATES—WATER UTILITY—FIRE HYDRANTS—CHARGE FOR SERVICE.—It is declared to be evident that the general public derives a benefit from fire hydrant service entirely apart from the service to the individual water user and that payment therefor should be made by the municipality as the representative of the general public.

*Hunsaker, Britt and Cosgrove, by John M. Clayton, for Applicant.
Oliver P. Ensley, for City of Hemet.*

MARTIN, *Commissioner.*

OPINION.

Hemet Town Water Company, applicant in the above entitled matter, is a public utility engaged in the business of furnishing water for domestic purposes to consumers in the city of Hemet, Riverside County.

The application alleges in effect that the revenues received from the sale of water are not sufficient to pay maintenance and operating expenses, and that they provide no return whatever upon the capital investment. The Commission is therefore asked to authorize the establishment of a remunerative rate for the service rendered.

A public hearing in this matter was held at Hemet. All interested parties were notified and given an opportunity to be present and to be heard.

Applicant's water system consists of 32,195 feet of distribution mains, ranging in size from 3-4-inch to 8 inches in diameter, with 293 service connections, of which 277 are metered. Fifty-one fire hydrants are attached to the system, of which all but seven were installed at the expense of the city or of individuals. This utility purchases its entire water supply from Lake Hemet Water Company, and some of its services are connected direct to that company's mains.

The present rates charged for water delivered to consumers are as follows:

Monthly minimum charge for use not in excess of 200 gallons per day-----	\$1 50
All use in excess of 200 gallons per day, per 100 cubic feet-----	10
Municipal use, per 100 cubic feet-----	05
Fire hydrants, no charge.	

Mr. William S. Post, engineer for applicant, submitted a report at the hearing which showed an estimated cost of reproduction of the system, as of January 1, 1922, amounting to \$34,400. The report also set forth a depreciation annuity, calculated by the sinking fund method, of \$465. Maintenance and operating expense for the future was estimated by Mr. Post at \$6,500.

Applicant also presented a statement of the cost of the system, as shown by its books, amounting to \$38,585. This cost, however, included items not now used and useful, and can not therefore be used in its entirety.

There was submitted in evidence a report prepared by Messrs. M. E. Ready and J. E. Daugherty, of the Commission's Hydraulic Division, which showed an estimate of original cost of the system amounting to \$20,855. Depreciation annuity, computed by the sinking fund method, was given as \$503, and maintenance and operating expense was estimated as \$6,034 per year.

Testimony indicates that the estimate of the Commission's engineer for maintenance and operating expense should be somewhat increased, and a careful consideration of all the evidence leads to the conclusion that the following items may reasonably be included in the annual charges:

Return at 8 per cent upon \$20,855	\$1,668 00
Depreciation annuity	500 00
Maintenance and operating expense	6,500 00
Total	\$8,668 00

Operating revenues for the year 1921 were \$6,406, which is less than the foregoing estimate of reasonable maintenance and operating expense. It is therefore evident that the utility is entitled to an increase in rates.

Applicant's request that a fire hydrant rate be established was objected to by the city on the ground that the municipal revenues will not permit the payment of such a charge. It appears that seven of the fire hydrants on this system were installed by applicant; that all hydrants on the system are maintained at its expense; and that the utility stands ready at all times to furnish water for fire-fighting purposes. It is evident, therefore, that the general public derives a benefit from this service which is entirely apart from the service to the individual water user, and that payment therefor should be made by the municipality as the representative of the general public. Testimony shows, however, that many of these hydrants are connected to pipes of small size and that the service is therefore not so valuable as it would be if the mains were of adequate size.

The rates set out in the accompanying order are established after a careful consideration of all the evidence and are designed to do substantial justice to both the consumer and the utility.

The following form of order is submitted:

ORDER.

Hemet Town Water Company, a corporation, having made application as entitled above, a public hearing having been held thereon, and the matter having been submitted,

It is hereby found as a fact that the rates now charged by Hemet Town Water Company for water delivered to consumers are unjust and unreasonable, in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service:

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that Hemet Town Water Company be and the same is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order, the following schedule of rates to be charged for water delivered to consumers in Hemet, Riverside County, effective for water furnished subsequent to March 31, 1922, or the meter reading period next preceding that date:

MONTHLY METER RATES.

First 600 cubic feet or less.....	\$1 50
From 600 to 1000 cubic feet, per 100 cubic feet.....	18
From 1000 to 5000 cubic feet, per 100 cubic feet.....	15
Over 5000 cubic feet, per 100 cubic feet.....	10

MONTHLY FLAT RATES.

For each service	1 50
------------------------	------

MUNICIPAL USE.

Fountains, street sprinkling and sewer flushing, per 100 cubic feet.....	10
Total for all fire hydrants, per annum	100 00

It is hereby further ordered, that Hemet Town Water Company be and the same is hereby directed to file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern relations with its consumers, such rules and regulations to become effective upon their acceptance by the Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of March, 1922.

DECISION No. 10252.

IN THE MATTER OF THE APPLICATION OF GEO. S. JONES TO SELL,
AND GEO. S. JONES COMPANY, A CORPORATION, TO PURCHASE,
AN AUTOMOBILE STAGE LINE OPERATED AS A COMMON
CARRIER OF PASSENGERS BETWEEN PETALUMA AND BOYES
SPRINGS, CALIFORNIA.

Application No. 7620.

IN THE MATTER OF THE APPLICATION OF GEO. S. JONES COM-
PANY, A CORPORATION, TO ISSUE STOCK.

Application No. 7621.

Decided March 27, 1922.

TRANSFER—STOCK—OPERATIVE RIGHT.—It is held that stock should not be issued
to acquire a certificate which was granted by the Railroad Commission without
any fee.

Thomas P. Boyd, for Applicants.

BENEDICT, *Commissioner*.

OPINION.

The two applications entitled as above were consolidated for hearing
and decision.

In Application No. 7620 Geo. S. Jones petitions the Railroad Com-
mission for an order authorizing him to sell, and Geo. S. Jones Com-
pany, a corporation, for an order authorizing them to purchase and
operate, an automobile stage line operated as a common carrier of pas-
sengers between Petaluma and Boyes Springs via Lakeville and Sonoma
and serving as an intermediate point the community of Shellville.

The operative right herein proposed to be transferred was obtained
by Geo. S. Jones under Decision No. 9484, in Application No. 6836,
dated September 8, 1921.

At the hearing on these proceedings held at San Francisco on March
10, 1922, Mr. Jones testifying in his own behalf stated that as he was en-
gaged in a number of different enterprises, he desired to segregate his
public utility business from his business of a private nature and accord-
ingly had caused to be formed the Geo. S. Jones Company, a corpora-
tion, for the purpose of operating his public utility enterprises.

In Application No. 7621, the Geo. S. Jones Company, a corporation,
asks permission to issue its common stock of the total par value of
\$10,000. This corporation was organized on or about January 31, 1922,
with an authorized stock issue of \$10,000, divided into 10,000 shares
of the par value of \$1 each. Under the present proceeding it proposes

to issue \$8,732 of its stock in payment for properties whose value is reported as follows:

One Hudson touring car -----	\$800 00
One Locomobile touring car -----	1,000 00
One Ford touring car -----	250 00
Automobile tools and garage equipment -----	550 00
Automobile accessories and parts, tires, stock-in-trade, valued at invoice price -----	1,576 00
Bills receivable -----	556 00
Good-will of garage business conducted at Ignacio, Marin County -----	3,000 00
Franchise or permit issued to said Geo. S. Jones on Application No. 6836, by the Railroad Commission of the State of California, to operate an automobile stage line as a common carrier of passengers between Petaluma and Boyes Springs via Lakeville and Sonoma -----	1,000 00
Total -----	\$8,732 00

In addition thereto, the corporation also asks permission to issue and sell to Geo. S. Jones for cash 1268 shares of its common stock, the proceeds thereof to be used for the purposes of acquiring additional automobile equipment to be used in the conduct of the automobile stage business.

Section 52 of the Public Utilities Act reads, in part, as follows:

The Commission shall have no power to authorize the capitalization of the right to be a corporation, or to authorize the capitalization of any franchise or permit whatsoever, or the right to own, operate and enjoy any such franchise or permit, in excess of the amount (exclusive of any tax or annual charge) actually paid to the state or to a political subdivision thereof as the consideration for the grant of such franchise, permit or right.

The certificate of public convenience and necessity proposed to be transferred to the corporation was granted by the Railroad Commission without the payment of any fee whatsoever. In my opinion no stock should be permitted to be issued by the corporation for the purpose of acquiring such certificate from George S. Jones.

Applicant corporation intends, in addition to operating a public utility stage line, to engage in a non-public utility garage business and asks permission to issue \$3,000 of common stock in exchange for the good will of such business. Aside from the question of the propriety of permitting a public utility to issue stock to acquire the good will of a non-public utility enterprise, I do not consider that applicant herein has made an adequate showing justifying the issuance of this \$3,000 par value of stock.

The request for permission to issue \$3,000 par value of stock for the purpose above indicated will be denied, as will the request for permission to issue \$1,000 par value of stock to acquire the certificate heretofore issued to Geo. S. Jones.

I submit the following form of order:

ORDER.

Geo. S. Jones having made application to the Railroad Commission for an order authorizing him to sell a certain automobile stage line to Geo. S. Jones Company, a corporation, and the corporation having applied to the Railroad Commission for permission to purchase and operate such stage line and for permission to issue \$10,000 par value of its common capital stock, a public hearing having been held, the matters being submitted, and the Commission being of the opinion that the transfer should be authorized and that the corporation should be permitted to issue \$6,000 of its common capital stock, and that the money, property or labor to be procured or paid for by such issue, is reasonably required by Geo. S. Jones Company, a corporation;

It is hereby ordered, that Application No. 7620 be and the same hereby is granted subject to the conditions as hereinafter specified.

It is hereby further ordered, that the Geo. S. Jones Company, a corporation, be and it hereby is authorized to issue at not less than par \$6,000 of its common capital stock. The authority herein granted for the issuance of stock is subject to the following conditions:

1. Stock in the amount of \$4,732 may be issued by Geo. S. Jones Company, a corporation, for the purpose of acquiring the automobile equipment, automobile tools, garage equipment, automobile accessories, bills receivable, described in Application No. 7621. The remainder of the stock, namely \$1,268, shall be sold by Geo. S. Jones Company, a corporation, for cash at not less than par and the proceeds used for the purpose of acquiring additional automobile equipment or other properties.

2. Geo. S. Jones Company, a corporation, shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

3. The authority herein granted will apply only to such stock as may be issued, sold or delivered on or before September 1, 1922.

4. Applicant Geo. S. Jones shall immediately cancel all tariff of rates and time schedules now on file with the Railroad Commission, such cancellation to be in accordance with the provisions of General Order No. 51 and other regulations of the Railroad Commission.

5. Applicant Geo. S. Jones Company, a corporation, shall immediately file tariff of rates and time schedule, in duplicate, in its own name, or adopt as its own the tariff of rates and time schedule heretofore filed with the Railroad Commission by applicant Geo. S. Jones,

all rates and time schedules to be identical with those filed by applicant Jones.

6. The rights and privileges herein authorized to be transferred may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

7. No vehicle may be operated by applicant Geo. S. Jones Company, a corporation, unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this twenty-seventh day of March, 1922.

DECISION No. 10253.

HARRY GRANT, C. T. NYE ET AL.

vs.

C. B. SMITH, GRANITE ROCK WATER COMPANY AND MOSS BEACH REALTY COMPANY.

Case No. 1711.

Decided March 29, 1922.

Harry Grant, for Complainants.

J. J. Bullock, for Defendants.

BY THE COMMISSION.

OPINION.

A public hearing was held by Examiner Westover at Moss Beach in the above entitled case, in which the issues made by the pleadings are, first, the ownership of a portion of the water system in question, referred to as the Moss Beach gravity system, although the complainant alleges that it is operated by one of defendants under arrangement with the alleged owner, and second, the reasonableness of rates fixed by Decision No. 9724 of November 8, 1921, upon Application No. 7008, hearing in which it is alleged was held without opportunity for the 32 complainants to be heard.

It appears in evidence that written notice of the hearing upon Application No. 7008 was mailed by the utility to each consumer in ample time before the hearing, and that certain consumers of water served by the utility appeared and testified therein.

At the hearing in this case, complainants stated that the only question they wished to present related to the form of the rate. Therefore, only the form of the rate will be considered herein.

The present rate, which was authorized by Decision No. 9724, provides a minimum annual charge for flat rate service of \$18, payable in

advance, and a minimum charge for six months' service of \$12, payable in advance, with a rate of \$2 per month for each additional month; and with a minimum measured rate, payable in advance, of \$12 for 300 cubic feet of water per month for six months. The objection of the consumers is to payment in advance for one year in order to get the benefit of a rate averaging \$1.50 per month, and that if payment is made in advance for only six months, the rate is increased to \$24 per year, or an average of \$2 per month.

The form of rate complained of was fixed by the Commission because of the transient character of a large portion of the population served by the utility in and about Moss Beach. A recent house survey of the territory served, in which there are 123 services, 30 of which are metered, shows that 43 per cent are transient consumers, and 57 per cent permanent residents. It appears that the application of the present rates to the consumers for the months shown by the utility's records, would produce only the amount allowed by the Commission to maintain and operate the system and cover replacements as needed, without providing any return upon estimated investment. However, it seems to be possible to so modify the form of the rate as to relieve consumers from the necessity of advancing to the utility large sums of money before the service is rendered, and yet provide for the utility the necessary annual charges referred to.

We have, therefore, amended the rate schedule contained in the order in said Decision No. 9724 of November 8, 1921, to the form found in the order herein.

ORDER.

A public hearing having been held in the above entitled case, the matter being submitted and ready for decision:

It is hereby found, that the present rates of Granite Rock Water Company, authorized by Decision No. 9724 of November 8, 1921, upon Application No. 7008, are unreasonable in that they require burdensome payments in advance, and that they should be modified. Basing its order upon the above finding of fact and upon all of the findings of fact contained in the opinion preceding this order:

It is hereby ordered, that the order in said Decision No. 9724, upon Application No. 7008, be and it is hereby amended by striking out paragraphs four, five and six, relating to rates, and substituting therefor the following:

It is hereby further ordered, that A. N. Henderson, doing business under the fictitious name of Granite Rock Water Company, be and he is hereby authorized to file with this Commission within ten (10) days

from the date of this order the following rates, to be charged for all service subsequent to March 31, 1922:

MONTHLY FLAT RATES.

For residences of not more than 4 rooms, including bath, toilet, lavatory and sink, payable in advance for the calendar months of May, June, July, August, September and October, in each year, per month, in advance-----	\$2 00
For the remaining calendar months of the year, in advance, per month-----	1 00
For each additional room-----	25
For lawns, shrubbery, gardens, etc., per 100 square feet, during above summer months-----	04
A turn-on charge of \$2.50 to be made for interrupted service.	

MONTHLY METER RATES.

Minimum for $\frac{1}{2}$ -inch and $\frac{3}{4}$ -inch meters-----	1 50
Minimum for 1 -inch meters-----	2 00
Minimum for 1½-inch meters-----	2 50
Minimum for 2 -inch meters-----	3 00

QUANTITY USE RATES.

For the first 2000 cubic feet, per 100 cubic feet-----	40
All over 2000 cubic feet, per 100 cubic feet-----	35
All hotels, laundries, and other large users to be on meter rates.	

Dated at San Francisco, California, this twenty-ninth day of March, 1922.

DECISION No. 10261.

MRS. FRANK L. STEELE AND JAMES P. STEELE

vs.

H. G. BITTLESTON.

Case No. 1703.

Decided March 29, 1922.

James P. Steele, for Complainants.

Amend and Amend, by *F. B. Amend*, for Defendant.

BY THE COMMISSION.

OPINION.

The complaint in the above entitled proceeding alleges in effect that defendant is the owner of a well and pumping plant located upon land adjoining the property of complainants; that complainants have received their supply of water for irrigating purposes from defendant's plant for a period of over eight years; and that defendant now refuses to furnish water to complainants except in emergencies. Complainants therefore ask that defendant be compelled to furnish them with water as in the past; that defendant be required to keep his well in a reasonable state of repair; and that the Commission fix the rates to be charged for the service rendered.

Defendant's amended answer to the complaint alleges that service was given only upon solicitation by complainants; that the plant was

originally constructed for private uses; that the yield is limited and is not sufficient to furnish an adequate supply for his own use and for complainants; and that the plant has never been operated as a public utility.

A public hearing in this matter was held at Los Angeles before Examiner Williams, briefs have been filed, the matter has been submitted and is now ready for decision.

It appears that in 1912 defendant purchased approximately six acres of land located immediately south of the limits of the City of Los Angeles. At the time of the purchase of this land there was located thereon a well and pumping plant, installed by the former owner for the purpose of supplying water for domestic and irrigation use thereon. In 1914 it became necessary to install a new well and thereafter in 1915, complainants, who owned an adjoining tract, desired to use water, and were permitted to obtain a supply from defendant's plant, being charged therefor at the rate of 60 cents per hour run of the pump.

This use of water was continued by complainants during each year after commencement, but in varying quantities. Only a nominal use of water was made in 1915, 1916 and 1920. During 1920 and 1921 defendant's plant was in poor condition and complainants purchased the greater part of their supply from a pumping plant on the property of John Shindler, and it is questionable if any part of the supply would have been taken from defendant's plant had not the Shindler plant been closed down a part of the time for repairs.

Testimony shows that, including complainants, five different parties have been supplied with water from defendant's plant at various times. Service to these consumers was not in all cases continuous and in one instance at least was furnished only as an emergency measure during repairs to the consumer's own plant.

It is evident that none of those served at different intervals by the Bittleston plant relied upon it for their entire supply, and when the plant was closed for repairs in 1921 no apparent damage resulted as there were other sources of supply available which were used.

Mr. Shindler, whose pumping plant has previously been referred to and is located only a short distance from complainants' property, testified that he is ready and willing to supply them with water. The supply from this plant is greater and much more dependable than the supply from the Bittleston plant, but complainants object to its use upon the ground that they have been unable to obtain a right of way for conducting the water across a tract of land 370 feet wide lying between their property and that of Mr. Shindler. During their use

of water from the Shindler plant in 1921 they temporarily used an open flume to cross the intervening strip of land. It appears, however, that the right to conduct the water across this property can be obtained if use is made of a buried pipe, or some other method which will be unobjectionable to the owner, and although this right may not be entirely permanent, it will afford a means of securing the supply in an economical and feasible manner.

It also appears that defendant has in several instances refused to furnish water to applicants therefor, and it seems that such service as was rendered has been more upon the basis of neighborly accommodation than as a dedication to a public use.

It is plain that complainants have an alternative and more dependable supply available, and that the continuation of the supply from the Bittleston plant is not essential for the irrigation of their land.

ORDER.

Mrs. Frank L. Steele and James P. Steele, having made complaint against H. G. Bittleston, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact, that complainants have an alternative and more dependable supply of water available than can be secured from the well and pumping plant owned by defendant, and that the continuation of the supply by defendant is not essential for the irrigation of complainants' property.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion:

It is hereby ordered, that the complaint herein be and the same is hereby dismissed.

Dated at San Francisco, California, this twenty-ninth day of March, 1922.

DECISION NO. 10263.

IN THE MATTER OF THE APPLICATION OF THE MCCLLOUD RIVER RAILROAD COMPANY FOR AUTHORITY TO ESTABLISH A PENALTY CHARGE OF TEN DOLLARS ON STOCK CARS ORDERED AND NOT USED.

Application No. 7478.

Decided March 29, 1922.

RATES—RAILROAD—STOCK CARS—PENALTY WHEN NOT USED.—It is held that a charge of \$10 against stock cars ordered and not used would be a severe penalty. Owing to uncertainty attending cattle shipment, it is held that the carrier should participate to some extent in the risk. An out-of-pocket charge of \$5 a car is allowed.

D. M. Srobo, for Applicant.
G. J. Bradley, for C. Swanston & Son.

BY THE COMMISSION.

OPINION.

This is an application under section 63 (a) of the Public Utilities Act of the State of California for an order authorizing the McCloud River Railroad Company to establish a \$10 penalty charge against stock cars ordered placed for loading and not used by the shipper.

A public hearing was held by Examiner Geary on March 3, 1922, at San Francisco. No protests were entered, although notice of the proceeding had been given to all interested parties.

The evidence in support of the application shows that shippers of live stock place orders for cars without a reasonable attempt to ascertain the number required to fill their needs. The McCloud River Railroad Company, owning none of this class of equipment, places orders in good faith with the Southern Pacific Company, the connecting carrier, which in turn furnishes the cars as requested and the applicant is required to haul the empty equipment from Sisson to the stock shipping points on its line. Applicant performs all of the service necessary to prepare the equipment for loading, such as sanding and bedding, for which the authorized tariff charge is 50 cents for single and \$1 for double-deck cars and this is done without any assurance on the part of the shippers that the cars ordered will be used.

The evidence further shows that when shippers order more cars than they have loads for the McCloud River Railroad Company is not only burdened with the expense of sanding and bedding but, in addition, must pay the Southern Pacific Company a per diem charge of \$1 per day for each car furnished, to say nothing of the expense incurred in hauling the empty cars from Sisson to points along the line and their return to the junction point, covering distances ranging from 6 to 72 miles. Oftentimes extra trains are made necessary by reason of the heavy grades, ranging from 2½ to 4 per cent, and the many severe curves.

The stock cars furnished shipper can not be used in transporting other commodities and it being practically impossible to return the unused cars in less than three days, with a per diem charge of \$3, it is self evident that the McCloud River Railroad Company is performing the service at an actual out-of-pocket loss of at least \$4 per car, including the cost of sanding and bedding the cars, and exclusive of the expense of haulage from and to Sisson. The average revenue of the applicant from the live stock is \$33 per car and it can be readily seen that if a large number of stock cars are ordered and not used the net revenue is very much depleted.

The testimony given indicates that the application was presented by the McCloud River Railroad Company not for the purpose of securing additional revenue, but in an attempt to discourage and avoid performing a service for which it now receives no compensation and which is actually performed at a loss.

Prior to federal control the carriers had in their tariffs an item providing that when empty cars were placed for loading on orders and were not used, the party ordering the cars would be subject to regular demurrage charges, together with a charge for the empty haul of \$5 per car when the equipment was moved from a point outside of the station limits.

The forwarding of live stock involves features and difficulties not present in the moving of other commodities, for it frequently happens that stock can not be driven to the loading stations because of weather or other conditions beyond the control of shippers, therefore the carrier should participate, to some extent, in the unusual and peculiar conditions surrounding the shipments of live stock. A charge of \$10 would be in the nature of a severe penalty in situations entirely beyond the control of the shipper. It is, therefore, our opinion that nothing more than the proven out-of-pocket cost to the applicant should be allowed for the service given and this does not appear to be in excess of \$5 per car.

In view of the evidence produced it is the opinion of the Commission that the McCloud River Railroad Company should be authorized to publish a transportation charge of \$5 per car when live stock cars are ordered and not used, this charge to apply only when the equipment must be moved from a station other than that at which the loading takes place.

ORDER.

Application having been made by the McCloud River Railroad Company for permission to make a charge when cars are ordered for the loading of live stock and after having been placed are not used, a public hearing having been had on said application, and the Commission being fully apprised in the premises;

It is hereby ordered, that the McCloud River Railroad Company be and it is hereby authorized to publish in its tariffs a charge of \$5 per car, to be collected when cars are ordered for live stock and after having been moved from another station are not used by the shipper.

Dated at San Francisco, California, this twenty-ninth day of March, 1922.

DECISION No. 10265.

IN THE MATTER OF THE APPLICATION OF L. E. DEAN FOR AN
ORDER AUTHORIZING AN INCREASE IN RATES.

Application No. 7406.

Decided March 29, 1922.

L. E. Dean, in propria persona.

G. A. Burrell, for The Pacific Telephone and Telegraph Company.

BY THE COMMISSION.

OPINION.

A public hearing was held by Examiner Westover at Plymouth upon the above application for authority to increase rates for telephone service.

It appears from the testimony that applicant operates a telephone line running from Plymouth, Amador County, to Aukum and Fairplay in El Dorado County. Farmer line service and toll connection are provided by the Plymouth exchange of The Pacific Telephone and Telegraph Company. The system comprises about thirty-five miles of line. A switch office is maintained at the home of the applicant at Aukum. There are three branch lines connected at Aukum, with five subscribers on the first, six on the second, and ten on the third. There are three subscribers on the main line from Aukum to Plymouth, making a total number of subscribers of twenty-four. The applicant has one rate in effect, namely \$1 per month. He asks the Commission to authorize two rates: for residence service, \$1.50 per month; and for business service, \$2 per month. He alleges that under present rates he is operating at a net loss and has been so operating since he acquired the system two years ago.

Prior to the hearing, an inspection of the line was made by F. D. Andrews, one of the Commission's engineers. At the hearing, the applicant testified as to his operating expenses and revenues and his plans for rebuilding the line. Mr. Andrews submitted a report on valuation, depreciation, operation, revenue and expenses. His valuation figures include reproduction cost on historical basis, \$1,567. Revenue for the year 1921 was found to have been \$324.57. Applicant kept no account of cost of materials used in maintenance, nor of automobile expense, and charged nothing for salaries and nothing to depreciation. Mr. Andrews estimates that a fair allowance for all expenses, including depreciation, \$120, and allowing \$250 to the applicant and his wife for salaries and management, is the sum of \$574.

The testimony shows that the rates proposed by the applicant should produce an annual revenue of \$438. It will be seen that this is insufficient to pay the operating expenses as estimated above.

Of the twenty-four subscribers' telephone sets in use, the applicant rents seventeen from The Pacific Telephone and Telegraph Company at an annual rental of \$102, which is included in the above estimated operating expenses. We recommend that the applicant purchase his own instruments and thus eliminate this item of operating expense.

The testimony shows that most of the pole lines are in a very depreciated condition. The applicant testified that it was his purpose to engage each year in the work of setting new poles, and to replace all depreciated poles as rapidly as possible. He also promises to make needed improvements in the line wire. It is apparent that the increase in rates, as prayed for, should be granted, but the Commission will require applicant to render efficient telephone service. This can not be done if many of the poles now in use are allowed to remain much longer without replacement.

ORDER.

L. E. Dean, owning and operating a telephone system between Plymouth, Aukum and Fairplay, having applied for an order to increase his telephone rate, the matter having been heard and submitted:

It is hereby found that the rate heretofore charged for telephone service by said applicant is unreasonable and not compensatory, and that the rates hereinafter provided are just to the subscribers;

It is hereby ordered, that L. E. Dean be and he is hereby authorized to file with the Railroad Commission, within thirty days from the date of this order, and thereafter to charge and collect rates for telephone service in accordance with the following schedule:

Party-line residence service, per month	-----	\$1 50
Party-line business service, per month	-----	2 00

Applicant is authorized to put these rates into effect, subject to the following condition: Adequate and efficient telephone service must be rendered at all times for all classes of service.

Dated at San Francisco, California, this twenty-ninth day of March, 1922.

DECISION No. 10268.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO-OAKLAND TERMINAL RAILWAYS, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF NOTES AND APPROVAL OF AGREEMENT.

Application No. 7605.

Decided April 1, 1922.

Albert L. Whittle, for Applicant.

BY THE COMMISSION.

OPINION.

The Railroad Commission is asked to make an order authorizing San Francisco-Oakland Terminal Railways to issue five \$1,935 five per cent notes and approve the agreement to which reference is made below.

A hearing was had on this application before Examiner Gordon at San Francisco on March 24th.

On May 24, 1918, the Railroad Commission by Decision No. 5421 in Application No. 3754, authorized Emergency Transportation Company to issue a \$9,675 five per cent note payable on or before ninety days after the execution of a treaty of peace terminating the state of war then existing between the United States of America and the German Empire. The note was issued and is payable to the United States Shipping Board Emergency Fleet Corporation. The payment of the note is secured by the pledge of \$10,100 of outstanding stock to the Emergency Transportation Company, which stock is owned by the San Francisco-Oakland Terminal Railways. The payment of the note is also guaranteed by the San Francisco-Oakland Terminal Railways. The United States Shipping Board Emergency Fleet Corporation is willing to cancel the \$9,675 note now held by it if San Francisco-Oakland Terminal Railways will issue to it five promissory notes identical in form, falling due and becoming payable respectively on or before one, two, three, four and five years after January 15, 1922, each note for the sum of \$1,935 and to bear interest at the rate of 5 per cent per annum payable semi-annually on the fifteenth day of January and the fifteenth day of July. Copies of the proposed notes have been filed in this proceeding.

On August 16, 1918, the United States Shipping Board Emergency Fleet Corporation, Emergency Transportation Company and San Francisco-Oakland Terminal Railways entered into an agreement relating to the construction and operation of additional trolley transportation facilities on Chestnut street from Eighth street to or near First street in the city of Oakland to accommodate shipyard workers and others. The agreement covered, among other things, the issue and payment of the \$9,675 note referred to above, the guaranty of the payment of the note by the San Francisco-Oakland Terminal Railways, the operation of the newly constructed line by the San Francisco-Oakland Terminal Railways, the disposition of the revenues from such operation and the maintenance of the properties. It appears that the line of railway constructed under the agreement has been operated and is being operated as an integral part of the railway system operated by the San Francisco-Oakland Terminal Railways, which asks the Commission to approve the agreement.

ORDER.

San Francisco-Oakland Terminal Railways having applied to the Railroad Commission for permission to issue \$9,675 face value of notes, and requested the Commission to approve a certain agreement dated August 16, 1918, filed in this proceeding and marked "Exhibit A," a public hearing having been held and the Commission being of the opinion that applicant's requests should be granted;

It is hereby ordered, that San Francisco-Oakland Terminal Railways be and it is hereby authorized to issue to the United States Shipping Board Emergency Fleet Corporation five promissory notes, identical in form, falling due and becoming payable respectively on or before one, two, three, four and five years after January 15, 1922, each note for the sum of \$1,935 and to bear interest at the rate of five per cent per annum payable semi-annually on the fifteenth day of January and the fifteenth day of July, said notes being issued for the purpose of paying or refunding the \$9,675 note of the Emergency Transportation Company referred to in this application.

The Railroad Commission hereby approves the agreement filed in this agreement and marked "Exhibit A," said agreement being made and entered into on the sixteenth day of August, 1918, between the United States Shipping Board Emergency Fleet Corporation, San Francisco-Oakland Terminal Railways and Emergency Transportation Company.

The San Francisco-Oakland Terminal Railways is hereby directed to file within sixty days after the date hereof, a statement showing whether it has exercised the authority herein granted, and if it has exercised such authority, it shall advise the Commission whether the notes issued are in the same form as the proposed notes filed in this proceeding.

Dated at San Francisco, California, this first day of April, 1922.

DECISION No. 10271.

IN THE MATTER OF THE APPLICATION OF INDUSTRIAL TERMINAL RAILWAY COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK AND STOCK CERTIFICATES.

Application No. 2962.**Decided April 1, 1922.**

Burke Corbet and E. W. Taylor, by E. W. Taylor, for Applicant.

LOVELAND, Commissioner.

FIRST SUPPLEMENTAL OPINION.

Industrial Terminal Railway Company in a supplemental petition filed in the above entitled matter, asks permission to issue at par \$420,000 of its common capital stock to pay indebtedness in the sum of \$408,-

\$667.35 and to provide itself with additional cash in the amount of \$11,332.65 to pay taxes and other expenses during the time that its business is being developed.

The record shows that applicant was incorporated on or about June 4, 1915, with an authorized capital stock of \$50,000 and that subsequently the authorized stock was increased to \$1,000,000 divided into 10,000 shares of the par value of \$100 each.

At present applicant reports \$5,500 of stock outstanding. This stock was issued pursuant to Decision No. 2832, dated October 22, 1915, for the purpose of paying organization expenses and acquiring rights of way in the city of Los Angeles.

The company proposes to construct in the city of Los Angeles a switching and terminal railway approximately two miles in length and covering the following route:

Commencing at a point in the easterly line of Alameda street in the city of Los Angeles, north of Aliso street, thence east and north to Alhambra avenue, at or near its intersection with the easterly bank of the Los Angeles river, together with such other and further appendages, adjuncts and terminal facilities to the hereinbefore described lines of railroad, including sidings, turnouts, industrial spurs, spur tracks, and connections, as the board of directors of said corporation may from time to time direct.

On May 29, 1917, applicant filed an application for permission to issue \$50,000 of stock to finance the construction of a part of its line of railway. At that time there were pending before the Commission the so-called Los Angeles terminal cases. The Commission, after considering applicant's request for permission to issue stock, concluded that no order should be made authorizing the issue of stock by applicant until a decision has been rendered in the terminal cases. The Commission made an order in the terminal cases and thereupon applicant filed its supplemental petition for permission to issue stock.

While applicant has but \$5,500 of stock outstanding, the record shows that considerable properties have been acquired by it through funds advanced by L. E. Hanchett. The evidence shows that up to November 1, 1921, L. E. Hanchett advanced to applicant \$408,667.35 which was expended in acquiring lands, rights of way, easements, rails and other track materials. Applicant reports that the rights of way acquired consists of a strip of land from 40 to 165 feet in width located between its proposed terminals, together with land for terminal facilities, sidings, turnouts, spur tracks and industrial spurs and connections. The cost of the land and other properties, together with their appraised value, is reported as follows:

Item	Cost	Present appraised value
Land	\$370,033 25	\$413,329 65
320-8030 No. 1 steel rails	9,770 79	11,725 90
Splices, bolts, spikes, etc.	3,738 87	4,486 60
	<hr/> \$383,542 91	<hr/> \$429,542 15

Most of the land was acquired through condemnation proceedings.

While I am of the opinion that the Commission should grant applicant's request for permission to issue stock, the authority herein granted in no way limits the Commission's jurisdiction or control over grade crossings or terminal facilities in Los Angeles.

I herewith submit the following form of order:

FIRST SUPPLEMENTAL ORDER.

Industrial Terminal Railway Company having applied to the Railroad Commission for permission to issue stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required by applicant and that this application should be granted subject to the conditions of this order;

It is hereby ordered, that Industrial Terminal Railway Company be and it is hereby authorized to issue and to deliver to **L. E. Hanchett**, or his assigns, at not less than par \$420,000 (4200 shares) of its common capital stock.

The authority herein granted is subject to further conditions as follows:

1. Stock in the amount of \$408,667.35 may be delivered to **L. E. Hanchett**, or his assigns, provided said **L. E. Hanchett**, or his assigns, accept such stock in full payment for advances to applicant up to November 1, 1921.

2. Stock in the amount of \$11,332.65 may be sold by applicant for cash at not less than par and the funds used for additions and betterments and working capital.

3. Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

4. By exercising the authority herein granted to issue stock, applicant agrees that it will not urge that such authority limits in any way the Commission's jurisdiction or control over grade crossings and terminal facilities in Los Angeles and that it will consider the Commission's jurisdiction and control over said grade crossings and terminal facilities in the same manner as though the Commission had not granted it authority to issue stock.

5. The authority herein granted will apply only to such stock as may be issued, sold and delivered on or before December 31, 1922.

The foregoing first supplemental opinion and first supplemental order are hereby approved and ordered filed as the first supplemental opinion and first supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this first day of April, 1922.

DECISION No. 10274.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION AND SOUTHERN CALIFORNIA EDISON COMPANY FOR AN ORDER AUTHORIZING THE EXECUTION BY APPLICANTS OF AN AGREEMENT IN THE NATURE OF A LEASE, BY THE TERMS OF WHICH SAN JOAQUIN LIGHT AND POWER CORPORATION RESERVES FOR THE EXCLUSIVE USE OF SOUTHERN CALIFORNIA EDISON COMPANY A TWELVE THOUSAND FIVE HUNDRED KILOWATT UNIT TO BE INSTALLED IN THE MIDWAY STEAM PLANT OF SAN JOAQUIN LIGHT AND POWER CORPORATION.

Application No. 7521.

Decided April 1, 1922.

BY THE COMMISSION.

OPINION.

San Joaquin Light and Power Corporation and Southern California Edison Company request approval of a certain agreement and authority for the execution thereof. The agreement provides for the installation by San Joaquin Light and Power Corporation in its Midway steam plant of a 12,500-kilowatt turbine, together with necessary boilers and auxiliaries, at a cost of approximately \$1,200,000, said installation to be completed and in operation by August 1, 1922. It further provides for the delivery and sale during the period from August 1, 1922, to June 1, 1923, by San Joaquin Light and Power Corporation to Southern California Edison Company of 80,000,000 kilowatt hours, at a price of \$42.485 per month plus \$0.00333 per kilowatt hour. It is further agreed that this unit shall be available for service to Edison Company in preference to other consumers of San Joaquin Company and that San Joaquin Company shall make available an additional 7500 kilowatts of capacity, if possible, on its system or through purchase from other electric systems during the period of the agreement, making a total capacity of 20,000 kilowatts.

Southern California Edison Company desires additional plant capacity to protect its service during the fall and winter of 1922, and San Joaquin Company is of the opinion that additional capacity will be necessary for its own load in the summer and fall of 1923.

Investigation and report by the Commission's engineers indicates that the agreement will be to the mutual benefit of both parties. With the cheap gas supply available at the Midway plant and the elimination of additional investment in steam plant capacity by Edison Company material saving will result to it. The rate as computed includes not only return upon the investment by San Joaquin Light and Power Corporation but an amount to cover reduction in the cost of construction of the plant which it is estimated may occur between the present and the time when the plant would be necessary for service of San Joaquin Company's regular business. The Commission will, upon the termination of the agreement, decide what adjustments, if any, shall be made in the accounts of San Joaquin Light and Power Corporation.

We find from the investigation of the agreement and the report of the Commission's engineers that the agreement will apparently result to the benefit of both parties and that it should be approved under the conditions set forth in the following order:

ORDER.

San Joaquin Light and Power Corporation and Southern California Edison Company having jointly applied for permission to execute a certain agreement dated January 24, 1922, heretofore referred to, and from investigation by the Commission's engineers it appearing that the agreement will be of benefit to both parties and to the public served by these utilities, and there appearing no reason for a formal hearing in this matter;

It is hereby ordered, that San Joaquin Light and Power Corporation and Southern California Edison Company be and they are hereby authorized to execute an agreement substantially in the same form as the agreement filed in this proceeding and marked "Exhibit A."

It is hereby further ordered, that San Joaquin Light and Power Corporation shall, within thirty days after the expiration of the agreement herein authorized to be executed, file with this Commission a complete statement setting forth in detail the cost of the plant referred to in said agreement, the operating revenues and operating expenses relating to said plant, together with such other information as may be required by the Commission relative thereto.

Dated at San Francisco, California, this first day of April, 1922.

DECISION No. 10282.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY, A CORPORATION, FOR AN ORDER GRANTING PERMISSION TO CANCEL NON-BAGGAGE FARES BETWEEN SAN FRANCISCO AND RICHMOND-RODEO AND INTERMEDIATE POINTS.

Application No. 7350.

IN THE MATTER OF THE APPLICATION OF ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY (COAST LINES) TO CANCEL NON-BAGGAGE FARES BETWEEN SAN FRANCISCO AND FERRY POINT, RICHMOND AVENUE AND RICHMOND.

Application No. 7494.

Decided April 5, 1922.

RATES — RAILROAD — NON-BAGGAGE FARES — CANCELLATION OF.—Application to cancel non-baggage fares to Richmond and other points denied, the Commission holding that the evidence failed to substantiate the justice of the fares proposed.

RATES—DISCRIMINATION—CLASS OF SERVICE.—Although finding locality discrimination in the present situation, the Commission held that it does not follow that such discrimination is unjust or unlawful when the difference in class of service and in volume of business is given consideration.

J. E. Lyons and F. E. Battura, for Applicant in Application 7350.

Platt Kent and M. C. Harris, for Applicant in Application 7494.

D. J. Hall, for the City of Richmond.

E. W. Hollingsworth, for the Traffic Bureau of Oakland Chamber of Commerce.

BY THE COMMISSION.

OPINION.

The above entitled applications were consolidated, a public hearing was held before Examiner Geary on February 15, 1922, at San Francisco and the matters here under consideration are now ready for a decision.

In Application No. 7350, the Southern Pacific Company requested authority under section 63 (a) of the Public Utilities Act to cancel all non-baggage fares now in effect between San Francisco and Rodeo and all of the intermediate points.

In Application No. 7494 the Atchison, Topeka and Santa Fe Railway Company requested authority under section 63 (a) of the Public Utilities Act to cancel all of its non-baggage fares now in effect between San Francisco and Ferry Point, Richmond avenue and Richmond (McDonald avenue).

The evidence in Application No. 7350 of Southern Pacific Company showed that the non-baggage fares complained of were originally established in September, 1910, at a time when applicant furnished the only transportation between Oakland, West Berkeley, and Corbin by means of local steam trains, this service being later extended to Richmond and was continued until June, 1913, when it was abolished owing to

the construction of electric car lines into a part of the territory. At the present time the non-baggage fare between San Francisco and Richmond is 34 cents, with baggage checking privilege 60 cents; to San Pablo the non-baggage fare is 47 cents, the baggage privilege fare 66 cents; to Pinole the non-baggage fare is 74 cents, with baggage checking privilege 84 cents, while at Rodeo the fare is 96 cents, there being no non-baggage fare in effect.

The history of the 34-cent rate with the non-baggage checking privilege is interesting, for the reason that it was built up to meet the growth of communities on the Alameda County side of the bay. Originally, the interurban fare without baggage checking privilege between San Francisco and Corbin, a station beyond West Berkeley, was 10 cents, the main-line fare from Corbin to Richmond 15 cents, the combination of these two non-baggage fares, San Francisco to Richmond, making a through fare of 25 cents. During the period of federal control the 25-cent fare was increased to 28 cents and by this Commission's Decision No. 7983, August 17, 1920, the fare was increased to 34 cents, this latter increase brought about by the action of the Interstate Commerce Commission's *ex parte* 74 order, which followed the conditions imposed by the Esch-Cummins Act, commonly known as Transportation Act, 1920.

The Southern Pacific Company filed an exhibit setting forth the number of tickets sold during the year 1921 at non-baggage fares; the total number of whole fares between all points was 53,671, or an average of 4469 per month; the total half fares amounted to 1262, or 105 per month. Out of this total 38,596 were whole and 1051 were half fares between San Francisco and Richmond, producing revenue of \$13,423.71. Between San Francisco and Rodeo the number of whole fares amounted to 2457; half fares 71, producing a revenue of \$2392.80; the difference, 12,618 whole fares and 140 half fares, represented the travel between all other points.

There was testimony intended to show that travel on non-baggage fares has drifted to automobile companies and electric street car lines and while it may be a fact that these avenues of transportation are receiving a substantial and perhaps the major part of the Richmond business, the exhibits also show that there has been a large increase in the number of passengers carried by the Southern Pacific Company. This is particularly true of the traffic moving between San Francisco and Richmond, which in January, 1921, was 2844, while in the month of December, 1921, the total was 4342, or an increase in December over January of 1498 passengers, or 52 per cent. The same average increase was made to a greater or less extent at all of the other points involved and, since the year 1921 suffered severely from business depression, it

is clearly proven that this suburban business is decidedly on the increase and would, no doubt, have given much better results had conditions been normal.

In answer to a question, carrier's witness stated that the cancellation of the non-baggage fares involved in this application would not enable the company to take off any coaches or reduce the train service, the passengers now being carried on regular main-line trains.

There is no testimony in this proceeding to the effect that the cancellation of the fares would result in any benefits to the applicants, but on the contrary the change would tend to reduce revenues. Applicant's witness, however, was of the opinion that the volume of the travel would continue even if the Richmond fare were increased from 34 to 60 cents.

There is in effect a 10-ride commutation ticket between Richmond and Oakland, Berkeley and San Francisco of \$2.32, or at the rate of 23.2 cents per ride; the ticket is good for bearer and party and has a limit of one month from date of sale. It is not proposed to cancel this form of transportation and the conclusion must be that if the ordinary travelers were deprived of the 34-cent fare they would resort to the purchase of the 10-ride commutation ticket.

The Southern Pacific Company has in effect in the same general territory an interurban fare of 21 cents between San Francisco and Stonehurst, a distance of 14 miles, and a like fare between San Francisco and Elmhurst, a distance of 13 miles. The fare between San Francisco and Richmond is 34 cents for a distance of 15 miles. If this application were granted the only remaining fare between San Francisco and Richmond for the 15 miles, via the Southern Pacific, would be 60 cents as contrasted with 21 cents between San Francisco and Stonehurst for a distance of 14 miles. There is locality discrimination in the present situation, but it does not follow that this discrimination is unjust or unlawful when consideration is given to the difference in the class of service and the volume of business, but a decidedly unfair situation would be created if the Richmond fare were increased from 34 cents to 60 cents.

The evidence indicates that these applicants would not be benefited by depriving the people in the Richmond territory of the interurban fare they have so long enjoyed.

In Case No. 1532, the Richmond Chamber of Commerce called into question the passenger fares of the Atchison, Topeka and Santa Fe between San Francisco and Ferry Point, Richmond avenue and Richmond (McDonald avenue), alleging they were excessive and unreasonable because the Santa Fe failed to publish the same non-baggage fares as in effect between San Francisco and Richmond via the Southern Pacific Company. Decision No. 9543, September 23, 1921, ordered the

establishment of the non-baggage fares. In the instant proceeding the Atchison, Topeka and Santa Fe is asking this Commission to reverse the decision rendered six months ago, but it has failed to present any substantial reasons why the fares should not be continued in effect. A witness for applicant stated that the revenue obtained from the Richmond passenger traffic did not enter into the question, it being too small to be of any importance, although the passengers were carried on main-line trains at no additional operating cost.

The cancellation of these non-baggage fares, resulting in radical increases to the general public, would not be in harmony with the general trend of economic adjustments taking place all over the country and would result in no advantage to these applicants.

In view of the evidence presented, which fails to substantiate the justice of the fares proposed, we are of the opinion that the application should be dismissed. The Commission, however, is of the opinion that where fares are published to stations where train stops have been abandoned where the non-baggage fare is higher or is the same as the baggage fare and where there are other inequalities in the tariff, the same should be corrected by presentation of informal applications under sections 15 and 63 of the Public Utilities Act.

ORDER.

The Southern Pacific Company and the Atchison, Topeka and Santa Fe Railway Company having filed applications for authority to increase certain passenger fares between San Francisco and Richmond, a public hearing having been held in said applications, a full investigation of the matters and things involved having been had and the Commission being of the opinion that the applicants have failed to justify the proposed increases in fares;

It is hereby ordered, that the applications in the above entitled proceedings be and the same are hereby denied.

Dated at San Francisco, California, this fifth day of April, 1922.

DECISION No. 10284.

IN THE MATTER OF THE APPLICATION OF F. W. GOMPH, AGENT
PACIFIC FREIGHT TARIFF BUREAU, FOR A READJUSTMENT
OF RATES BY THE ELIMINATION OF FRACTIONS, RESULTING IN
INCREASES.

Application No. 7339.

Decided April 5, 1922.

RATES—RAILROAD—REDUCTION OF FRACTIONS.—Carriers authorized to publish rates in cents per 100 pounds on certain commodities heretofore fixed on tonnage basis, so that rates will reflect only fractions of one-half cent. Application as to sand, rock and other heavy commodities denied.

J. E. Lyons, E. W. Camp, and B. Levy, for Applicant and Pacific Freight Tariff Bureau, Southern Pacific Company and Atchison, Topeka and Santa Fe Railway Company.

F. P. Gregson and R. Sawyer, for Associated Jobbers of Los Angeles.

E. E. Bennett, for Salt Lake-Union Pacific System.

B. H. Carmichael, for Union Rock Company.

J. S. Moore, Jr., for Western Pacific Railroad Company.

J. A. Keller, for Coast Rock and Gravel Company.

LOVELAND, Commissioner.

OPINION.

On November 14, 1921, F. W. Gomph, agent for numerous carriers, filed an application requesting authority to make adjustments of the rates applying to fertilizer, rock, sand, gravel, dried fruits and certain other commodities, representing both increases and decreases, the desire being to place the rates on a basis of 100 pounds, terminating in even cents or half cents.

The following quotations from the application clearly set forth the reasons for the same and the objections to be sustained by the proposed changes:

This application requests permission to publish increases in rates as shown in Exhibit 1 attached hereto, between points in California which result by reason of transposing rates per ton of 2000 pounds in effect on August 25, 1920, to cents per 100 pounds and then increasing those rates according to the per cent and rule for disposing of fractions in rates per 100 pounds provided for in your Decision No. 7083 of August 17, 1920.

Rule 8 of special supplements to tariffs issued under authority of your decision referred to above, does not provide for the disposition of fractions for rates per ton of 2000 pounds in the same manner as such fractions were disposed of under corresponding rule authorized in General Order No. 28 of the Director, Division of Traffic, United States Railroad Administration; the present rule makes it necessary to dispose of fractions for rates in cents per ton the same as for rates in cents per 100 pounds, which results in destroying the parity of rates from and to same points in such cases where rates of one line are stated in cents per ton of 2000 pounds and the rates of another line are stated in cents per 100 pounds.

As to rates between competitive points, even though the charges be increased in some instances from $2\frac{1}{2}$ cents to 5 cents per ton there will, in fact, be a reduction in charges paid by the shipper where cars are placed upon private sidings of lines which do not participate in the line haul. For example: The rate on sand, carloads, minimum weight 60,000 pounds from Marysville, California, to Sacramento, California, moving via Southern Pacific Company is 4 cents per 100 pounds (published in Item 2610, original page 84 of S. P. Co.'s Tariff 330-D, C. R. C. No. 2484); via Western Pacific Railroad and Sacramento Northern Railroad the rate is 75 cents per ton of 2000 pounds (published in Item 7070, page 230 of Bureau Tariff No. 34-G, by C. R. C. No. 214). If a shipment moves to Sacramento via the Southern Pacific Company, it could not be placed upon an industry track of the Sacramento Northern Railroad unless the shipper pays the switching charge of the switching line at destination. Likewise, if the shipment moves over the line of the Sacramento Northern Railroad it could not be placed upon a private industry track of the Southern Pacific Company except upon payment of the switching charge of that company. Numerous instances of this kind will occur in connection with the rates shown in Exhibit 1 hereof, even though the line haul rates are shown as increases.

The American Railway Association of Accounting Officers has strongly urged upon the carriers to eliminate from their tariffs all fractions in rates, especially in rates per ton, because of the greater possibility of error in extending charges where the rate contains a fraction of a cent.

Proposed change will bring about increases in some cases which will be offset by reductions in others. These increases and reductions are in no case more than a

quarter of a cent per 100 pounds and as proposed adjustment will result in keeping rates on a parity between competitive points, carriers desire to be permitted to publish same at the earliest possible date.

Public hearings were held on January 6, 1922, at San Francisco, and January 23, 1922, at Los Angeles and the case is now ready for a decision.

It is not the intent of the carriers parties to this application to increase their earnings and the application is presented solely with a desire to maintain uniformity in the rates of the different carriers on various commodities and to publish all rates in cents per 100 pounds instead of having some published on a 100-pound basis and others on a basis per ton of 2000 pounds. Under the rate adjustment now in effect, if the rates shown per ton of 2000 pounds were transposed to cents per 100 pounds the effect would be, in order to maintain the present parity, to have certain rates carrying such fractions as $\frac{7}{8}$, $\frac{19}{20}$, $\frac{7}{40}$, $\frac{13}{40}$, etc. The Commission is in entire accord with the plans to discard all unnecessary fractions in rate making, but it must take into consideration the increases brought about by such changes from certain shipping points. The increases as proposed would in no case be greater than one-quarter cent per 100 pounds, or 5 cents per ton, but this apparent slight increase per ton reflects a charge of from \$2 to \$2.50 per car against shipments of rock, sand and gravel and where these commodities are shipped in large quantities to competitive points, the difference of 5 cents per ton, it is claimed by witnesses, would influence the sale of the commodity.

The Coast Rock and Gravel Company of San Francisco and the Union Rock Company of Los Angeles protested the proposed increases on the grounds that such increases would interfere with the tonnage movement of the low grade rock, sand and gravel from their plants and destroy certain trade conditions which have existed for some years past.

In reviewing the rates on low grade commodities, such as crushed rock, sand and gravel, upon which, it is claimed by the producers, that the margin of profit is very small, we find that the rates have already been very substantially advanced. From certain quarry shipping points, where the rate was 35 cents per ton on June 24, 1918, the present rate is 75 cents per ton and it is now proposed to increase this rate to 4 cents per 100 pounds, or to 80 cents per ton. In another instance, where the rate on June 24, 1918, was 75 cents per ton the present rate is \$1.25 per ton and it is now proposed to increase this rate to $6\frac{1}{2}$ cents per 100 pounds, or to \$1.30 per ton.

In this proposed adjustment there would be many reductions and increases in the rates on rock, sand and gravel and if applied to these

commodities would be more severely felt on such low grade materials than on other commodities where the movements are infrequent and not great in volume.

I have not before me sufficient data to determine whether or not the decreases will offset the increases, as claimed by representatives of the carriers, but from the testimony given at both hearings it is evident that the placing of rates on a basis of per 100 pounds will not materially affect the charges to shippers of dried fruits, fertilizer, lime rock, etc., for, as heretofore stated, the tonnage movement is very small where the rates are to be changed.

Under the present economic business conditions and upon the showing made, I am of the opinion the rates on rock, sand and gravel should not be further increased at this time. It is suggested that the rates be equalized by reductions if the changes in tariffs from cents per ton to cents per 100 pounds can be accomplished without disturbing the entire rate structures of these commodities.

Taking into consideration all of the facts dealing with this application, I am of the opinion the application should be granted, with the exception of the rates applying to rock, sand and gravel.

I submit the following form of order:

ORDER.

The Pacific Freight Tariff Bureau, through its agent, F. W. Gomph, acting in behalf of certain rail carriers in California, parties to the Pacific Freight Tariff Bureau, has applied for authority under section 63 (a) of the Public Utilities Act of the State of California to adjust the rates on certain commodities now named in dollars and cents per ton to basis of rates in cents per 100 pounds, resulting in both increases and decreases, and the Commission being fully apprised in the premises and basing its conclusions on the findings set forth in the foregoing opinion;

It is hereby ordered, that the applicant herein be and the same is hereby authorized to publish rates in cents per 100 pounds on commodities as shown in the application, so that the rates when published will reflect only fractions of one-half cent as provided for by Decision No. 7983 in Application No. 5782 of August 17, 1920, with the following exception:

That the rates on crushed rock, sand and gravel now published on the basis of dollars and cents per net ton shall not be increased by reason of changes in the publication of the rates.

All the rates herein authorized are subject to complaint, investigation and correction.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fifth day of April, 1922.

DECISION No. 10285.

IN THE MATTER OF THE APPLICATION OF VIRGINIA AND GOLD HILL WATER COMPANY, A CORPORATION, AND THE VIRGINIA AND GOLD HILL WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE SALE OF PROPERTY AND THE ISSUANCE OF COMMON STOCK.

Application No. 7701.

Decided April 5, 1922.

McCutchen, Olney, Willard, Mannon and Greene, by *A. C. Greene*, for Applicant.

BY THE COMMISSION.

OPINION.

In this application, Virginia and Gold Hill Water Company asks for permission to sell and transfer all of its properties, assets, franchises and business, more particularly described in Exhibit "A" filed in this proceeding, to The Virginia and Gold Hill Water Company. The Virginia and Gold Hill Water Company asks for permission to acquire such properties, subject to existing indebtedness, and to issue \$1,000,000 of its capital stock.

A public hearing was held by Examiner Gordon in San Francisco on April 1, 1922.

Virginia and Gold Hill Water Company was organized under the laws of the State of California with an authorized capital stock of \$1,000,000, divided into 50,000 shares of the par value of \$20 each. All of the authorized stock is reported outstanding. The application shows that the company is engaged in the business of selling water and water power for irrigation, domestic and other uses in Storey and Lyon Counties, Nevada, reporting for the year ending July 15, 1921, gross revenues of \$49,439.69 and disbursements of \$51,766.47.

The articles of incorporation of Virginia and Gold Hill Water Company show that it was organized on or about April 26, 1872. Its charter will expire on April 26, 1922. The company can not extend its charter and therefore those in control have caused The Virginia and Gold Hill Water Company to be organized for the purpose of purchasing and acquiring all of the properties of Virginia and Gold Hill Water Company.

The new company was organized under the laws of the State of California, on or about March 16, 1922, with an authorized capital

stock of \$1,000,000, divided into 50,000 shares of the par value of \$20 each. It proposes to sell seven shares, of the total par value of \$140, at par, for cash, for the purpose of qualifying directors and to deliver the remaining 49,993 shares (\$999,860) in payment, subject to existing indebtedness, of all of the properties of the old company. When the transfer of the properties is finally consummated, the stock of the new company will be exchanged for the stock of the old on the basis of par for par. No change in the management or control will result. It appears from the record herein that the liabilities to be assumed by the purchasing company are of a nominal amount and consist of expenditures in connection with the preparation of this application and miscellaneous rent and service obligations and liabilities.

The record shows that the region served, or to be served, by applicants, lies entirely within the State of Nevada and that it is neither physically nor financially possible to give service in California. However, both applicants have been organized under the laws of California and for that reason they have applied to this Commission for permission to transfer properties and to issue stock.

ORDER.

Application having been made to the Railroad Commission for an order authorizing the transfer of properties and the issue of stock, a public hearing having been held and the Railroad Commission being of the opinion that the application should be granted and that the money, property or labor to be procured or paid for by such issue of stock is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Virginia and Gold Hill Water Company be and it is hereby authorized to sell and transfer, subject to existing indebtedness, all of its properties, assets, franchises and business, more particularly described in Exhibit "A" attached to the application herein, to The Virginia and Gold Hill Water Company for 49,993 shares (\$999,860) of the stock of the latter company.

It is hereby further ordered, that The Virginia and Gold Hill Water Company be and it is hereby authorized to acquire and purchase, subject to existing indebtedness, said properties, assets, franchises and business, and to issue \$1,000,000 of its capital stock.

The authority herein granted is subject to the following conditions:

1. Of the stock herein authorized, seven shares (\$140) shall be sold at par, for cash, for the purpose of qualifying directors, and the proceeds used for working capital.

2. The remainder of the stock herein authorized, 49,993 shares (\$999,860), may be delivered to Virginia and Gold Hill Water Company, or to whomsoever may be designated by Virginia and Gold Hill Water Company, in part payment of the properties, assets, franchises and business herein authorized to be transferred.

3. The Virginia and Gold Hill Water Company shall keep such record of the issue of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

4. The authority herein granted shall apply only to such transfer of properties or issue of stock as may be made on or before December 1, 1922.

Dated at San Francisco, California, this fifth day of April, 1922.

DECISION No. 10286.

IN THE MATTER OF THE APPLICATION OF THE MOUNT TAMALPAIS AND MUIR WOODS RAILWAY FOR AN ORDER AUTHORIZING IT TO ISSUE RENEWAL NOTES, AND SECURING THEM BY A PLEDGE OF THE SAME BONDS NOW SECURING THE NOTES TO BE RENEWED.

Application No. 7716.

Decided April 5, 1922.

Thomas, Beedy and Lanagan, by *J. W. Paramore*, for Applicant.

BENEDICT, Commissioner.

OPINION.

Mount Tamalpais and Muir Woods Railway asks permission to issue a \$15,000 six per cent note payable on or before one year after date and secure the payment of the note by the deposit of \$15,000 of first mortgage bonds of Mill Valley and Mount Tamalpais Scenic Railway.

Applicant, as of December 31, 1921, reported \$397,500 of stock and \$39,000 of bonds outstanding. Its current indebtedness is reported at \$18,529.44 and consists of a \$15,000 note, \$3,091.94 of accounts payable and \$487.50 of unmatured interest accrued.

The Railroad Commission by Decision No. 8897, dated April 26, 1921, (Vol. 19, Opinions and Orders of the Railroad Commission of California, p. 733) authorized applicant to deposit \$15,000 face value of Mill Valley and Mount Tamalpais Scenic Railway first mortgage bonds to secure the payment of a \$15,000 note. The note matures on April 6th. The money obtained through the issue of the note was used to pay in part for a locomotive.

Applicant reports that it has not sufficient cash on hand to pay the note and that the holder of the note is willing to accept a new note in payment thereof.

I herewith submit the following form of order:

ORDER.

Mount Tamalpais and Muir Woods Railway having applied to the Railroad Commission for permission to issue a \$15,000 note and to deposit \$15,000 of bonds as collateral, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of the note herein authorized is reasonably required by applicant and that the expenditures herein permitted are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Mount Tamalpais and Muir Woods Railway be and it is hereby authorized to issue a \$15,000 six per cent note payable on or before one year after date for the purpose of paying or refunding the \$15,000 note referred to in this application, and to secure the payment of the note herein authorized to be issued by the deposit of \$15,000 face value of first mortgage bonds of Mill Valley and Mount Tamalpais Scenic Railway.

The authority herein granted is subject to further conditions as follows:

1. Upon the payment of the note, or any portion thereof, all the bonds or a proper proportion thereof, shall be returned to applicant's treasury and not thereafter disposed of without further order from the Commission.

2. Applicant may, if it desires, issue a note for a term of less than one year. If it issues a note for a term of less than one year, it may renew such note from time to time, provided that the term of the note originally issued and the term of the renewal note, or notes, issued shall not exceed one year from the date hereof.

3. Mount Tamalpais and Muir Woods Railway shall keep such record of the deposit of the bonds herein authorized and of the issue of the note as will enable it to file a verified statement, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fifth day of April, 1922.

DECISION No. 10291.

IN THE MATTER OF THE APPLICATION OF P. T. DURFY FOR ORDER
APPROVING CONTRACT FOR THE SALE OF THE SHERMAN
WATER SYSTEM AND FRANCHISE TO W. P. CUNNINGHAM AND
F. B. R. CUNNINGHAM.

Application No. 4657.

Decided April 6, 1922.

Martin M. Levering, for Applicants.

BY THE COMMISSION.

FIRST SUPPLEMENTAL OPINION.

In a supplemental petition filed in the above entitled matter, P. T. Durfy, owner of a water system known as Sherman Water Company, and W. P. and F. B. R. Cunningham ask the Railroad Commission to approve the modification of the agreement of purchase and sale entered into by and between them on May 10, 1921, to approve the deeds conveying the Sherman Water Company from P. T. Durfy to W. P. and F. B. R. Cunningham, and to approve the escrow instructions to California Title Insurance Company. W. P. and F. B. R. Cunningham ask for permission to execute a first mortgage to P. T. Durfy to secure the payment of a three-year six per cent note for \$15,000 and a second mortgage and chattel mortgage to Mrs. E. G. Caruthers to secure the payment of two three-year eight per cent notes in the aggregate face amount of \$20,000 and for permission to issue notes.

A public hearing on the supplemental petition was held before Examiner Williams in Los Angeles on March 27, 1922.

In effect, this application involves the sale of the Sherman Water Company, the execution of three mortgages and the issue of three notes.

The record shows that P. T. Durfy is the owner of a public utility water system supplying water for domestic and irrigation purposes in the town of Sherman, Los Angeles County, serving, on December 31, 1921, 384 consumers. The assets and liabilities of the system, which is known as Sherman Water Company, as of December 31, 1921, are reported as follows:

ASSETS.	
Fixed capital installed prior to January 1, 1913.....	\$27,225 00
Fixed capital installed since December 31, 1912	11,727 27
Total fixed capital	\$38,952 27
Cash	426 41
Accounts receivable	823 94
Materials and supplies	443 65
Total assets	\$40,646 27

LIABILITIES.	
Proprietorship -----	\$36,484 62
Accounts payable -----	1,941 09
Reserve for accrued depreciation -----	2,220 56
Total liabilities -----	\$40,646 27

In Decision No. 9435, dated August 30, 1921, in Application No. 6666, reference is made to a report prepared by the Commission's hydraulic division in which the original cost of the properties, exclusive of real estate, as of April 30, 1921, was estimated to be \$34,095. The Commission, in that decision, assumed a value of \$39,095, including the lands necessary and useful to the system, as a fair and reasonable rate base.

The Railroad Commission, heretofore, by Decision No. 6806, dated October 28, 1919, in the above entitled matter, authorized P. T. Durfy to sell this water system and business to W. P. and F. B. R. Cunningham. The contract for purchase and sale, dated May 26, 1919, provided for a total consideration of \$30,000, payable as follows: \$500 upon the signing of the agreement; \$5,000 on or before January 1, 1920; \$10,000 on or before January 1, 1921, and \$14,500 on or before January 1, 1923. It appears that the properties have not as yet been transferred, although W. P. and F. B. R. Cunningham took possession and have been operating the system since May 1, 1921.

In the supplemental petition filed March 18, 1922, it appears that on May 10, 1921, P. T. Durfy and W. P. and F. B. R. Cunningham entered into a modification of the original contract by the terms of which it was agreed that the \$10,000 installment due January 1, 1921, might be paid as follows: \$2,000 upon the signing of the modification; \$3,000 on or before November 1, 1921; \$2,000 on or before January 1, 1922, and \$3,000 on or before July 1, 1922. The balance of the agreed purchase price will be evidenced by a promissory note dated February 1, 1922, payable on or before February 1, 1925, bearing interest at six per cent per annum and secured by a first mortgage on the properties to be transferred.

Applicants now ask the Commission to approve this modification of the contract.

The testimony herein shows that of the original purchase price \$23,000 is unpaid, and that in addition there is due P. T. Durfy for moneys advanced for improvements and extensions prior to May 1, 1921, \$1,480; for boring and lining a well in Franklin Canyon, \$3,000, and for accrued interest, \$572.50, making a total amount due P. T. Durfy from W. P. and F. B. R. Cunningham of \$28,052.50.

W. P. and F. B. R. Cunningham now propose to pay \$13,052.50 of this amount in cash, or its equivalent, and thereupon to obtain title to

the properties and execute a first mortgage for the remaining \$15,000. In addition, the Cunninghams propose to execute two other mortgages upon the properties—a second mortgage and a chattel mortgage—to secure the payment of two three-year eight per cent notes in favor of Mrs. E. G. Caruthers, or order, for an aggregate amount of \$20,000. Mrs. E. G. Caruthers thereupon will pay \$15,421.25 in cash and will assign to the Cunninghams a mortgage on personal property in the city of Los Angeles and two seven per cent notes, which, with accrued interest from October 30, 1921, aggregate \$4,578.75. These two latter notes, together with \$8,473.75 in cash, will be delivered to P. T. Durfy in full payment for the \$13,052.50 which W. P. and F. B. R. Cunningham propose to pay him at this time. P. T. Durfy has agreed to accept the notes for \$4,578.75 in lieu of a like amount of cash.

W. P. and F. B. R. Cunningham ask permission to use the remaining \$6,947.50 to be received from Mrs. E. G. Caruthers to pay in part for improvements and additions to the properties. They allege that since the date of filing of the original application in this matter, June 5, 1919, they have expended approximately \$12,000 for alterations, repairs and additions, which, as the testimony of W. P. Cunningham shows, consist of buildings and structures on the lands included among the properties transferred. Some of the money seems to have been expended for non-public utility properties. W. P. and F. B. R. Cunningham will be required to file a stipulation declaring that they, their successors or assigns, will never urge the Commission or any court or public body to include in a rate base such portion of the moneys obtained for the issue of the notes herein authorized as may be used to pay for non-public utility properties.

SECOND SUPPLEMENTAL ORDER.

Application having been made to the Railroad Commission for authority to modify an agreement of purchase and sale, for approval of escrow instructions and instruments of conveyance, for permission to execute mortgages and to issue notes, a public hearing having been held and the Railroad Commission being of the opinion that the application should be granted to the extent indicated herein;

It is hereby ordered, that the order in Decision No. 6806, dated October 28, 1919, as amended, be and it is hereby modified so as to permit P. T. Durfy to transfer the water business and properties owned by him and operated under the name of Sherman Water Company, to W. P. and F. B. R. Cunningham, subject to the terms and conditions of the contract of purchase and sale dated May 26, 1919, as amended by the modification of the contract dated May 10, 1921, all as set forth in supplemental petition filed March 18, 1922, in the above entitled

matter, said transfer to be made pursuant to the escrow instructions filed in this proceeding and marked Exhibit "B."

It is hereby further ordered, that W. P. and F. B. R. Cunningham be and they are hereby authorized to execute a first mortgage to P. T. Durfy and Sallie L. Durfy substantially in the same form as the mortgage attached to the supplemental petition and marked Exhibit "G" and to issue to P. T. Durfy and Sallie L. Durfy their three-year six per cent promissory note due on or before February 1, 1925, in the principal amount of \$15,000 in part payment of the properties to be acquired from P. T. Durfy.

It is hereby further ordered, that W. P. and F. B. R. Cunningham be and they are hereby authorized to execute a second mortgage and a chattel mortgage to Mrs. E. G. Caruthers substantially in the same form as the mortgages attached to the supplemental petition and marked Exhibits "H" and "I"; to issue to Mrs. E. G. Caruthers, or order, their two three-year eight per cent notes due on or before March 3, 1925, in the aggregate face amount of \$20,000 and to use \$13,052.50 of the proceeds in part payment of the properties to be acquired from P. T. Durfy.

The authority herein granted is subject to further conditions as follows:

1. The authority herein granted to execute mortgages is for the purpose of this proceeding only and is an approval only in so far as this Commission has jurisdiction under the Public Utilities Act, and is not intended as an approval of said mortgages as to such other legal requirements to which said mortgages may be subject.

2. The consideration at which applicants transfer the properties shall not be urged before the Railroad Commission or before any court or other body having jurisdiction as a measure of value for rate fixing or for any other purpose except the transfer.

3. W. P. and F. B. R. Cunningham may use not exceeding \$6,947.50 of the moneys obtained from Mrs. E. G. Caruthers to pay in part the cost of the additions and improvements referred to in this application.

4. The authority herein granted will not become effective until W. P. and F. B. R. Cunningham have filed with the Commission a stipulation declaring that they, their successors and assigns, will never urge the Railroad Commission or other public body having jurisdiction to include in a rate base such portion of the \$20,000 to be received from Mrs. E. G. Caruthers as may be expended for properties not used or useful in the public utility business, and the Commission has made a supplemental order reciting that such stipulation satisfactory in form has been filed in this proceeding.

5. The authority herein granted will not become effective until W. P. and F. B. R. Cunningham have paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$35.

6. W. P. and F. B. R. Cunningham shall keep such record of the issue of the notes herein authorized and of the disposition of the proceeds as will enable them to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

7. The authority herein granted will apply only to such transfer of properties, execution of mortgages and issue of notes as may be made on or before December 31, 1922.

Dated at San Francisco, California, this sixth day of April, 1922.

DECISION No. 10292.

IN THE MATTER OF THE APPLICATION OF GARDINER ESTATE
(WATER DEPARTMENT) FOR AUTHORIZATION TO OPERATE
UNDER A METER RATE SCHEDULE TO BE ESTABLISHED BY
THE COMMISSION.

Application No. 7283.

Decided April 6, 1922.

RATES—WATER UTILITY—METER SCHEDULE—WASTEFUL USAGE.—It is held that the establishment of a meter rate will very largely prevent wasteful use of water and will distribute equitably the cost of producing the supply among the consumers in proportion to the quantities used.

L. P. Gardiner, for Applicant.

BY THE COMMISSION.

OPINION.

The application in the above entitled proceeding alleges in effect that the water department of the Gardiner Estate furnishes water for domestic use in and in the vicinity of the town of Isleton, Sacramento County. It is further alleged that the water system has been operated for twenty-five years under flat rates which allow wasteful use of water and are non-compensatory.

The Commission is therefore asked to establish meter rates for the service rendered.

A public hearing in this matter was held before Examiner Satterwhite at Isleton. All consumers had been duly notified of the hearing and were given an opportunity to be present and to be heard.

This system consists of two distinct units, one of which serves the section of the town inhabited by whites and the other unit serving the Oriental section. The water supplied the white section is secured from

a well, while the supply for the Oriental quarter is pumped from the Sacramento River. Approximately 90 consumers are served through 4067 feet of distribution pipe lines of four-inch diameter or less. Storage is provided by three 8000-gallon capacity tanks on elevated frames.

The present flat rates charged for service are as follows:

White consumers.	
Hotels	\$2 50 per month
Laundries	2 00 per month
Residences	1 50 per month
Oriental consumers.	
Boarding houses	2 00 per month
Laundries	2 00 per month
Stores and residences	1 25 per month

Applicant claims an investment of \$9,382 in the property and an annual operating expense of \$1,320. Revenues of \$1,467 were alleged for the year ending August 1, 1921, with a return of less than two per cent upon the investment.

Mr. John Spencer, one of the Commission's hydraulic engineers, presented a report which showed the following items:

Estimated original cost of the water system	\$8,415 00
Depreciation annuity, computed by the sinking fund method	142 00
Estimated reasonable maintenance and operating expense	1,095 00
Estimated total revenue for the year 1921	1,539 00

The figures contained in Mr. Spencer's report were not questioned at the hearing, and as they appear reasonable, will be used for the purpose of this proceeding.

Annual charges, based upon the foregoing figures, are as follows:

Return at 8 per cent upon \$8,415	\$673 00
Depreciation annuity	142 00
Maintenance and operating expense	1,095 00
Total	\$1,910 00

The estimated revenues for 1921, amounting to \$1,539, were equivalent to a return of 3.6 per cent upon the estimated original cost of the system.

The establishment of a meter rate will very largely prevent wasteful use of water and will equitably distribute the cost of producing the supply among the consumers in proportion to the quantities used. The schedule set out in the accompanying order is designed to produce sufficient revenue to cover maintenance and operating expense, depreciation annuity and a reasonable return upon the investment.

It appears that no charge has been made in the past for fire hydrant service and a reasonable charge for such service will be established.

ORDER.

Gardiner Estate (water department) having made application as entitled above, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that the rates now charged by Gardiner Estate (water department) for water delivered to consumers in and in the vicinity of the town of Isleton, Sacramento County, are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that Gardiner Estate (water department) be and the same is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order, the following schedule of rates to be charged consumers, effective for all water delivered subsequent to March 31, 1922, or the meter reading period next preceding that date:

MONTHLY METER RATES.

5-inch meter, entitling consumer to 4,000 gallons.....	\$1 25
3-inch meter, entitling consumer to 5,000 gallons.....	1 50
1-inch meter, entitling consumer to 6,000 gallons.....	1 75
1½-inch meter, entitling consumer to 7,000 gallons.....	2 00
2-inch meter, entitling consumer to 9,000 gallons.....	2 50
3-inch meter, entitling consumer to 12,000 gallons.....	3 00
All use in excess of the foregoing amounts, per 1,000 gallons.....	15

MONTHLY FIRE HYDRANT RATES.

For each fire hydrant.....	50
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It is hereby further ordered, that Gardiner Estate (water department) be and the same is hereby directed to file with this Commission within thirty (30) days from the date of this order rules and regulations to govern relations with consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this sixth day of April, 1922.

DECISION No. 10293.

IN THE MATTER OF THE APPLICATION OF W. M. HUFFMAN FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO ESTABLISH AUTOMOBILE FREIGHT AND EXPRESS SERVICE AS A COMMON CARRIER BETWEEN OAKLAND AND TURLOCK AND INTERMEDIATE POINTS.

Application No. 7626.

Decided April 6, 1922.

Sanborn and Roehl, by *Arthur Roehl*, for Applicant.
Gwyn H. Baker, for White Lines, Protestant.

L. N. Brudshaw, for Southern Pacific Company, Protestant.
W. J. Shattuck, for Atchison, Topeka and Santa Fe Railway Company, Protestant.
Edw. F. Stern, for American Railway Express Company, Protestant.

BY THE COMMISSION.

OPINION.

A public hearing was held by Examiner Westover at Oakland on the above application, which seeks authority to operate automotive freight and express service as a common carrier between Oakland and Turlock, serving as intermediate points Pleasanton, Livermore, Tracy, Manteca, Ripon, Salida, Modesto, Ceres, and Keyes.

By Application No. 6476, applicant asked for authority to operate between Oakland and Turlock, and serve as intermediate points all of the above mentioned points, except Keyes and Pleasanton, but adding Haywards. The application limited the commodities to be transported to eggs, egg cases, butter fats, chickens and chicken crates. This was amended, however, at the hearing to include cream and to include Berkeley as a terminal for cream shipments. In the opinion in Decision No. 8892, of April 20, 1921, the Commission said: "The testimony justifies the granting of the application only as to butter and cream transported between Turlock, Oakland and Berkeley." The order specifically limits the authority to butter and cream moving between the three points named.

It appears from Mr. Huffman's testimony at the hearing upon the present application that he began operations in the summer of 1920 before he had received his original certificate, and that he hauled eggs, butter and cheese; and that when the decision upon Application No. 6476 was issued he did not limit his operations as provided in the certificate. He states that he did not learn until November, 1921, that his authority was so limited; that his attorney had previously notified him as to the result of the hearing that it was "all.O. K." The information received by Mr. Huffman in November was contained in a letter from the Commission under date of November 9, 1921, calling attention to the fact that he had not complied with the Commission's order by filing schedules and tariffs and demanding an explanation. The order provided that the authority did not become effective until and unless the schedules and tariffs were filed within twenty days.

On December 23d the Commission wrote Mr. Huffman, saying it was informed that he was advertising a service covering intermediate points and asking by what authority he was offering such service. To this letter the Commission received no reply, so wrote him again on February 18, 1922, saying that if the service was not discontinued it would be necessary to take steps to revoke his certificate. This brought no direct reply, but on March 2, 1922, his "agent" wrote that Mr. Huff-

man had informed him that the advertising had been ordered discontinued "for the reason that same was misleading in that no service was being rendered to points other than specified in certificate."

It appears, however, from testimony of witnesses produced by Mr. Huffman at the hearing herein that they had been shipping by his line from Oakland to Livermore and Pleasanton three or four months, others having begun to patronize his lines as recently as two months ago, subsequent to the Commission's letter of December 23, 1921, asking by what authority he was offering such service. Mr. Huffman further testified that he did not cease the illegal operations complained of when notified, because to do so would mean that he would have to go out of business and that he had \$12,000 invested in the business.

The application will be denied and proper proceedings instituted to show cause why the present certificate should not be revoked.

ORDER.

A public hearing having been held in the above entitled application, the matter being submitted and now ready for decision:

The Railroad Commission hereby declares that public convenience and necessity do not require the operation by W. M. Huffman of an automotive freight and express service as a common carrier between Oakland and Turlock, or any points intermediate thereto; and

It is hereby ordered, that the application be and it is hereby denied.

Dated at San Francisco, California, this sixth day of April, 1922.

DECISION No. 10294.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT
AND POWER CORPORATION FOR AN ORDER AUTHORIZING THE
ISSUE, SALE AND EXCHANGE OF BONDS.

Application No. 7715.

Decided April 8, 1922.

Murray Bourne, for Applicant.

BENEDICT, *Commissioner*.

OPINION.

San Joaquin Light and Power Corporation asks permission to issue \$2,625,000 of Series "C" 6 per cent first and refunding mortgage bonds due August 1, 1950, in exchange for \$2,625,000 of convertible collateral trust 8 per cent bonds due November 1, 1935, and sell, if necessary, at 99 and accrued interest Series "B" 6 per cent 30-year non-callable unifying and refunding mortgage bonds to redeem at 104 and accrued interest such of the 8 per cent bonds as may not be exchanged for 6 per cent first and refunding bonds. The company also

asks permission to issue and sell at 95½ and accrued interest \$3,500,000 of Series "B" 6 per cent 30-year non-callable unifying and refunding mortgage bonds and use the proceeds to finance the cost of additions and betterments. The company further asks permission to pay a 1 per cent underwriting commission for services rendered by the underwriters in connection with the refunding of the 8 per cent bonds.

The Railroad Commission by Decision No. 8264, dated October 21, 1920, authorized San Joaquin Light and Power Corporation to issue and sell at 93 and accrued interest \$2,625,000 of Series "D" 8 per cent convertible collateral trust bonds due November 1, 1935. By the same decision the Commission authorized the company to deposit with the Union Bank and Trust Company of Los Angeles, trustee, \$2,625,000 of its Series "C" 6 per cent first and refunding mortgage bonds for the purpose of securing in part the payment of the 8 per cent bonds. The execution of a trust indenture under which the 8 per cent bonds were issued was authorized by Decision No. 8314, dated November 6, 1920. In the trust indenture the company reserved the right to redeem on any interest payment date the 8 per cent bonds upon the payment of the principal, the accrued interest and a premium of 4 per cent on the principal. The holders of the 8 per cent bonds are given the option to convert them into Series "C" first and refunding 6 per cent bonds at any time prior to maturity or the date on which the 8 per cent bonds are called for redemption. Regarding the conversion, the trust indenture reads in part as follows:

Upon surrender to the trustee for the purpose of such exchange by any holder thereof of any one of such convertible bonds of the face amount of one thousand dollars (\$1000) with all unmatured coupons appurtenant thereto or of any two of such convertible bonds of the face amount of five hundred dollars (\$500) each with all unmatured coupons appurtenant to each thereof (provided that if any such convertible bonds shall be registered it shall be by the registered owner thereof transferred to bearer before any such surrender may be made), the trustee shall deliver to such holder, in exchange for such bond in the face amount of one thousand dollars (\$1000) or for such two bonds in the face amount of five hundred dollars (\$500) each, one of the corporation's series "C" six per cent first and refunding mortgage gold bonds in the face amount of one thousand dollars (\$1000) out of the number of such bonds on deposit with it in trust for the uses and purposes of this agreement, and shall pay over to the person so surrendering such bond or two bonds, as the case may be, in money, and for account of the corporation, an amount equal to the difference between the sum of nine hundred fifty dollars (\$950), plus accrued interest on such series "C" six per cent bond and the face amount of such convertible bond or two bonds so surrendered it, plus accrued interest thereon.

The refunding of the 8 per cent bonds is underwritten by Cyrus Peirce and Company and associates. For their services they are to receive a commission of 1 per cent on \$2,625,000, the amount of 8 per cent bonds outstanding. They have obligated themselves, however, to purchase at 99 and accrued interest such an amount of Series "B" 30-year 6 per cent non-callable unifying and refunding mortgage bonds

as applicant may find it necessary to sell in order to obtain funds required to pay such of the 8 per cent bonds as are not converted into Series "C" 6 per cent first and refunding mortgage bonds.

The evidence shows that the conversion or redemption of the 8 per cent convertible collateral trust bonds at this time is to the advantage of the company.

Applicant also asks permission to issue and sell \$3,500,000 of 30-year 6 per cent non-callable unifying and refunding bonds at 95½ and accrued interest, and use the proceeds to finance additions and betterments to its plants and properties.

In Exhibit "C" filed in this proceeding, applicant reports the cost of acquiring and constructing properties at \$6,373,810.44. From this amount it deducts a balance of preferred stock, \$2,060,898.82, authorized by Decision No. 9989, dated January 12, 1922, in Application No. 7465, leaving a balance of \$4,312,911.62. Applicant requests authority to use the proceeds from the sale of the bonds to reimburse its treasury for, or provide, the cost of making additions, extensions, improvements or betterments to its property made or to be made subsequent to January 1, 1917, the cost of which has not been reimbursed to applicant or provided for from the proceeds of other securities. I believe that before an order is made in this proceeding authorizing the use of the proceeds from the sale of the bonds, applicant should file with the Commission a supplemental application setting forth the amount of money expended for additions, extensions, improvements or betterments which has not been obtained from the sale of stock or bonds. Pending the filing of such a supplemental application and the making of an order by the Commission in response to such application, the proceeds obtained from the sale of the \$3,500,000 of bonds should be deposited with a bank or banks, or a trust company or trust companies.

Applicant as of December 31, 1921, had outstanding an interest bearing bonded indebtedness of \$27,027,000. This debt consists of \$3,252,000 of 5 per cent; \$12,150,000 of 6 per cent; \$9,000,000 of 7 per cent, and \$2,625,000 of 8 per cent bonds. It is now proposed to redeem the 8 per cent bonds and substitute therefor 6 per cent bonds. Substantially all of applicant's bonded debt is callable prior to maturity or matures serially. Applicant asks permission to issue 30-year non-callable bonds and urges that it can obtain a better price for a non-callable bond than for a callable bond. As a policy, the Commission looks with disfavor upon the issuance of long term non-callable bonds. In this instance, however, it appears to the advantage of the company, and in view of all the circumstances surrounding this particular issue it may be permitted, but should not be regarded as a precedent, or

an indication that the Commission under other circumstances will authorize the issue of non-callable bonds.

I herewith submit the following form of order:

ORDER.

San Joaquin Light and Power Corporation having applied to the Railroad Commission for permission to issue, sell and exchange bonds, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of the bonds herein authorized is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, as follows:

1. San Joaquin Light and Power Corporation is hereby authorized to issue \$2,625,000 of Series "C" 6 per cent first and refunding mortgage bonds in exchange for \$2,625,000 of Series "D" convertible collateral trust 8 per cent bonds and pay whatever cash is necessary to effect such exchange, all in accordance with the trust indenture under which the 8 per cent bonds were issued.

2. San Joaquin Light and Power Corporation is hereby authorized to issue and sell for cash at not less than 99 per cent of their face value and accrued interest such an amount of its Series "B" non-callable 6 per cent 30-year unifying and refunding bonds as will yield it sufficient funds to pay in cash at not exceeding 104 and accrued interest the Series "D" 8 per cent bonds not exchanged for Series "C" 6 per cent first and refunding mortgage bonds.

3. San Joaquin Light and Power Corporation is hereby authorized to issue and sell, for cash, at not less than 95½ per cent of their face value and accrued interest, \$3,500,000 of Series "B" 6 per cent 30-year non-callable unifying and refunding mortgage bonds. All proceeds obtained from the sale of such bonds shall be deposited with a bank or banks, or with a trust company or trust companies, until such time as the Commission may, by supplemental order or orders, indicate the purposes for which the proceeds may be expended.

4. San Joaquin Light and Power Corporation shall, on or before June 30, 1922, file a complete report covering all transactions relating to the conversion or redemption of the Series "D" 8 per cent convertible collateral trust bonds.

5. San Joaquin Light and Power Corporation is hereby authorized to pay a brokerage fee of not exceeding 1 per cent on \$2,625,000 for services rendered by underwriters in effecting an exchange of the Series "D" 8 per cent convertible collateral trust bonds for Series "C" 6 per cent first and refunding mortgage bonds, or for providing the company with funds necessary to redeem such 8 per cent bonds.

6. San Joaquin Light and Power Corporation shall keep such record of the issue, exchange, and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

7. The authority herein granted will not become effective until San Joaquin Light and Power Corporation has paid the fee prescribed by section 57 of the Public Utilities Act.

8. The authority herein granted will apply only to such bonds as may be issued, exchanged, sold or delivered on or before October 1, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eighth day of April, 1922.

DECISION No. 10295.

CITY AND COUNTY OF SAN FRANCISCO, A CORPORATION.

vs.

SPRING VALLEY WATER COMPANY.

Case No. 842.

IN THE MATTER OF THE APPLICATION OF SPRING VALLEY WATER COMPANY FOR PERMISSION TO INCREASE THE RATES AND CHARGES FOR WATER FURNISHED BY IT TO THE CITY AND COUNTY OF SAN FRANCISCO AND ITS INHABITANTS.

Application No. 2739.

Decided April 12, 1922.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas, Spring Valley Water Company reports that it is willing to enter into an agreement with the Board of Public Works of the city and county of San Francisco along the lines indicated in Ordinance No. 5599, new series, approved by the mayor of the city and county of San Francisco on March 31, 1922, and a copy of said ordinance marked "Exhibit A" being attached to the supplemental petition filed in the above entitled matter, and the company having requested the Commission to modify its order in Decision No. 9352, dated August 12, 1921, so as to permit it to enter into an agreement with the Board of Public Works of the city and county of San Francisco for the purpose of carrying out the provisions of said ordinance.

And, the Commission having considered the company's request and being of the opinion that its Decision No. 9352, dated August 12, 1921, should be modified as herein provided;

It is hereby ordered, as follows:

1. That Condition 1 of the order made by the Commission herein upon the twelfth day of August, 1921, be and it is hereby amended to read as follows:

If the city and county of San Francisco shall construct the section of its proposed Hetch Hetchy conduit, extending from a point of intersection with the railroad of the Southern Pacific Company in the vicinity of Irvington, county of Alameda, to a point on the route of the Hetch Hetchy aqueduct in the vicinity of Crystal Springs reservoir, county of San Mateo, together with a pumping station upon the line of said conduit for use in conjunction therewith, and is willing to enter into an agreement with the Spring Valley Water Company, under which agreement additional water may be brought from Alameda Creek sources through such conduit and by means of said pumping station into Crystal Springs reservoir, then and in that event the Spring Valley Water Company shall be required,

(a) To expend a sum not exceeding \$1,500,000 in increasing the height of its present Calaveras dam to an elevation which will result in an increase of not less than 24,000,000 gallons in the average daily yield of the Calaveras reservoir, and in making such other additions to its structures and facilities as may be requisite to permit the delivery of such additional 24,000,000 gallons daily to its Niles screen tank, and

(b) To construct a pipe line sufficient to convey 24,000,000 gallons of water daily from its said Niles screen tank to a point of connection with the aqueduct to be constructed by the city and county of San Francisco, at or near its intersection with the railroad of the Southern Pacific Company in the vicinity of Irvington, and

(c) To pay to the city and county of San Francisco, during each year of the period of construction of the said aqueduct and pumping plant, but for a total period not exceeding three years, a sum determined at the rate of five (5) per cent per annum upon the cost of such construction theretofore incurred, all as specified in subdivision (b), paragraph sixth of the said proposed agreement.

All of such construction shall be completed not later than the date of the completion of the Hetch Hetchy conduit and pumping station proposed to be constructed by the city and county of San Francisco; provided, however, that the required increase in the height of the Calaveras dam may be made in two or more units, and in such event, only the first of such units need be completed within the period last specified, and the remaining unit or units shall be completed within such further period or periods of time as may be jointly determined by the city engineer of the city and county of San Francisco and the chief engineer of the Spring Valley Water Company, and, in the event of their failure to agree thereupon, as may be determined by the Railroad Commission. In order to facilitate the construction of such conduit, and pumping station by the city and county of San Francisco, the Spring Valley Water Company shall grant to the city and county of San Francisco an easement of right of way for the installation of said conduit through such lands and rights of way of the Spring Valley Water Company as may be necessary therefor, the location of such conduit to be so determined as will interfere to the least possible extent with the future use by the Spring Valley Water Company of its lands and rights of way. The company may also make it a condition of said agreement for operating said Hetch Hetchy conduit and pumping station that if the company should at a future date elect to build its own conduit, or, for any other reason, should not require the further use of said Hetch Hetchy conduit and pumping station, it may, with the prior approval of the Railroad Commission, to be evidenced by a formal order, and on not less than three years' written notice to the city and county of San Francisco, terminate said agreement, and may make it a further condition of said agreement that the city and county of San Francisco shall give the company at least three years' written notice of its election to terminate said agreement, and that such notice shall not be given except for the purpose of enabling the city and county of San Francisco to make use of such conduit and pumping station for the transmission of water

from its Hetch Hetchy project to San Francisco, and that such termination shall not become effective prior to the time when the city and county of San Francisco shall actually require the use of such conduit and pumping station for such purpose, it being the intent hereof to afford the company adequate opportunity to provide or acquire other facilities for the transmission or other disposition of its water when said agreement shall be terminated by the city and county of San Francisco. The program of construction and time of completion of said structures shall be subject to joint determination by the city engineer of the city and county of San Francisco and the chief engineer of the Spring Valley Water Company, and in case of their failure to agree upon such program of construction or time of completion in any respect, the difference shall be submitted to the Railroad Commission of the State of California for determination.

2. That Condition 2 of the said order be and it is hereby amended to read as follows:

The Spring Valley Water Company shall, if the city and county of San Francisco undertakes the construction of said conduit and pumping station, stand ready to enter into and execute an agreement with said city and county, under which the company shall pay to the city and county out of its revenues, commencing with the completion of the said aqueduct and pumping plant and the receipt of written notice by the company that the same are available to it for the transmission of water, a sum equal to five per cent of the cost of constructing said conduit and pumping station, not exceeding a total of \$250,000 per year, and shall also pay, either through its own operation of said conduit and pumping station or, if that should not prove feasible, through the city's operation of said conduit and pumping station, all operating and maintenance charges, not including, however, replacements, extraordinary repairs, or loss or damage due to faulty construction or employment of defective or inadequate materials. Water brought through said conduit to Crystal Springs Reservoir shall, so far as may be necessary and to the extent of the existing conduit facilities of the Spring Valley Water Company, be pumped to the elevation of San Andreas reservoir, and thereafter delivered to the company's consumers in San Francisco.

3. That Condition 3 of the said order be and it is hereby amended to read as follows:

Commencing with the year 1922 the Spring Valley Water Company shall create and establish out of its surplus a fund for the purpose of amortizing the capital expenditures which will be incurred by the company in accordance with the above requirements, such fund being hereinafter referred to as the amortization fund. Said amortization fund shall be created and maintained as follows:

After full provision has been made during each year for the payment of operating and maintenance expenses, including the cost of operating the Hetch Hetchy conduit and pumping station (including likewise the payment of interest on the cost of construction of such conduit and pumping station as above provided in Condition 2 hereof) the payment of taxes and assessments, the creating of a depreciation reserve of \$300,000 per annum, the payment of interest on all bonds and notes and other interest-bearing indebtedness, and the payment of dividends at the rate of 5 per cent per annum upon the outstanding capital stock of the aggregate par value of \$28,000,000, there shall be set aside out of the surplus after meeting the foregoing requirements, and placed in the amortization fund, such sum, hereinafter referred to as the annual contribution, as will upon the expiration of a term of twelve years, with interest at 5 per cent compounded annually, yield a total sum equivalent to the aggregate of the capital expenditures required under the provisions of Condition 1 hereof; provided, however, that if the revenues of any particular year shall exceed the requirements of the Spring Valley Water Company as hereinabove set forth by more than the amount of such annual contribution, the amount of such excess shall be apportioned equally between the amortization fund and the surplus of the Spring Valley Water Company; provided, further, that if the revenues of any particular year shall be insufficient to yield a surplus equivalent to such annual contribution above the aforesaid requirements of the Spring Valley Water Company, the company shall not, during such year or thereafter, be required to make any

contribution to the amortization fund until a surplus shall have been derived in subsequent years in a sufficient aggregate amount to make up such deficit or accumulated deficits, together with interest upon the amount thereof at the rate of 7 per cent per annum; provided, further, that the Spring Valley Water Company shall not be required to make any contribution to the amortization fund during the years 1922 and 1923, but in the event that the properties of the Spring Valley Water Company which were offered for sale to the city and county of San Francisco on the fourteenth day of January, 1921, shall be purchased by the city and county of San Francisco prior to the first day of January, 1934, the sum which shall be transferred to and become the property of the city and county of San Francisco as hereinafter provided, shall be not less than the sum which would have been accumulated if contribution had been made to the amortization fund in accordance with the foregoing requirements of this condition. All moneys placed in the amortization fund herein required to be established shall be invested by the Spring Valley Water Company in such manner as will, in its judgment, afford the maximum interest yield consistent with safety of principal.

4. That Condition 4 of said order be and it is hereby amended to read as follows:

As a further condition of the granting of such increase, it is required that in the event that the properties of the Spring Valley Water Company which were offered for sale to the city and county of San Francisco on the fourteenth day of January, 1921, shall be purchased by the city and county of San Francisco prior to the first day of January, 1934, the amortization fund established in accordance with the requirements of Condition 3 hereof shall be transferred to and become the property of the city and county of San Francisco; provided, however, that if, up to the time that such properties shall be purchased by the city and county of San Francisco, the revenues of the company shall have been insufficient to meet the requirements of the company as specified in Condition 3 hereof, and such deficit or accumulated deficits shall not have been offset by the surplus derived from the revenue of subsequent years and prior to the time of such purchase, the said amortization fund before being transferred to the city and county, may be diminished by the amount of such deficit or accumulated deficits, and only the balance paid over to the city and county of San Francisco. In the event that said properties of the Spring Valley Water Company shall not have been purchased by the city and county of San Francisco prior to the first day of January, 1934, the said amortization fund shall thereafter remain the property of the Spring Valley Water Company.

It is hereby further ordered, that Spring Valley Water Company be and it is hereby authorized to enter into an agreement, substantially in the same form as the agreement contained in Ordinance No. 5599, new series, of the board of supervisors of the city and county of San Francisco, approved on March 31, 1922, by the mayor of the city and county of San Francisco.

It is hereby further ordered, that Spring Valley Water Company shall file a verified copy of the agreement herein authorized to be executed, within thirty days after its execution.

It is hereby further ordered, that the order in Decision No. 9352, dated August 12, 1921, as amended, shall remain in full force and effect except as modified by this first supplemental order.

Dated at San Francisco, California, this twelfth day of April, 1922.

DECISION No. 10296.

IN THE MATTER OF THE APPLICATION OF HODGE TRANSPORTATION SYSTEM, A CORPORATION, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE CAPACITY-LOAD MOTOR FREIGHT SERVICE BETWEEN BASSETT, SANTA ANA, CAPISTRANO, CORONA, EAST HIGHLANDS, HEMET, HUNTINGTON BEACH, LOS ANGELES, SAN FERNANDO, SAN PEDRO, SANTA BARBARA, VENTURA, WILMINGTON, YUCAIPA, AND POINTS INTERMEDIATE, ALSO POINTS REACHED BY TAP LINES, AND LOS ANGELES, WILMINGTON AND SAN PEDRO, CALIFORNIA.

Application No. 7152.

Decided April 12, 1922.

CERTIFICATE—MOTOR CARRIER.—It is found that the service proposed, the movement of freight on demand in a specified area, comprises the transportation of property for compensation over the public highways and between fixed termini and over regular routes, and requires a certificate of public convenience and necessity.

Randall, Bartlett and White, by *Louis B. Randall* and *Harry N. Blair*, and *Devlin and Brookman*, by *Douglas Brookman*, for Applicant.

L. N. Bradshaw, for Southern Pacific Company, Protestant.

H. J. Bischoff, for Coast Truck Lines, Protestant.

E. E. Bennett, for Los Angeles and Salt Lake Railroad Company, Protestant.

R. C. Gortner and *T. J. Day*, for Pacific Electric Railway Company, Protestant.

Howard Robertson, for California Truck Company, Citizens Truck Company, Pioneer Truck and Transfer Company, Star Truck and Transfer Company, Paul Kent Truck Company and Los Angeles Draymen's Association, Protestants.

Durley and Downes, by *W. M. Durley*, for Los Angeles and Santa Barbara Motor Express Company, Protestant.

Daly and Daly, by *James H. Daly*, for City Transfer and Storage Company and Union Transfer Company, Protestants.

F. D. Howell, for Motor Carriers' Association, Protestant.

Hocker and Austin, by *Robert E. Austin*, for H. C. Venable and A. D. Spence, Protestants.

John W. Hart and *Herbert W. Kidd*, for T. R. Rex, Keystone Express, S. & M. Transfer Company, Independent Truck Company, Advance Truck Line, Los Angeles and San Pedro Transportation Company, Thomas Richards, Van Nuys Truck Company, Chino Express, Rice Transportation Company, Triangle and Orange County Express, Los Angeles, Ojai and Ventura Express, Union Transfer Company, Seal Beach Auto Dispatch, Orange County Fast Freight, Newport and Balboa Freight Line and Weigans and Smith, Waterman and Carne, Coachella Valley Transportation Company, and Tucker Truck and Transfer Company, Protestants.

T. A. Woods and *M. Thompson*, by *M. Thompson*, for American Railway Express Company, Protestant.

Rodney S. Sprigg, for Allen Brothers and Smith Brothers Motor Truck Company, Covington Transfer Company, R. A. Stein, W. E. Allen and P. D. Cushing, Protestants.

K. F. Beyerle, for Murrietta Valley Motor Freight Line, Protestant.

E. D. Hall, *Laukershim*, in *propria persona*, Protestant.

R. J. Kimbro, *Orange*, in *propria persona*, Protestant.

Paul Burks and *E. T. Lucey*, for Atchison, Topeka and Santa Fe Railway Company, Protestant.

BY THE COMMISSION.

OPINION.

Hodge Transportation System, a corporation, has applied to the Railroad Commission for an order declaring that public convenience

and necessity requires the establishment by it of a motor truck transportation service between Los Angeles, Wilmington, and San Pedro and certain other points in Southern California together with points intermediate along the several lines of routes herein proposed and as more fully set forth by a schedule marked Exhibit "B" attached to and forming a portion of the application in this proceeding.

Public hearings on the above entitled application were conducted by Examiner Handford at Los Angeles, the matter was duly submitted and is now ready for decision.

Applicant proposes practically a capacity-load service to be rendered between Los Angeles, Wilmington, and San Pedro (the latter being the harbor points of Los Angeles) and practically all territory adjacent and tributary to Los Angeles and Los Angeles harbor, proposing service over eleven routes and intermediate points on such routes briefly described as follows:

I. Between Los Angeles, Wilmington, and San Pedro and the following points: Cabazon, Banning, Beaumont, Riverside, San Jacinto, Hemet, Perris, Alessandro, Temecula, Murrietta, Elsinore, Highgrove, Wineville, Ontario, Chino, Pomona, Spadra, Puente, Bassett, El Monte.

II. Between Los Angeles, Wilmington, and San Pedro and the following points: Beaumont, Yucaipa, Redlands, Colton, Bloomington and South Cucamonga.

III. Between Los Angeles, Wilmington, and San Pedro and the following points: Victorville, Hesperia, San Bernardino, East Highlands, Highland, Rialto, Fontana, Etiwanda, Cucamonga, Alta Loma, Up-land, Claremont, La Verne, San Dimas, Covina, Glendora, Azusa, Duarte, Monrovia, Sierra Madre, Lamanda Park, San Gabriel, Alhambra, Altadena and Pasadena.

IV. Between Los Angeles, Wilmington, and San Pedro and the following points: Capistrano, Irvine Station, Tustin, Santa Ana, Villa Park, Modena, Orange, Anaheim, Fullerton, Brea, La Habra, Leffingwell, Whittier and Montebello.

V. Between Los Angeles, Wilmington, and San Pedro and the following points: Yorba, Richfield, Olinda, Placentia, Casa Blanca, Arlington and Corona.

VI. Between Los Angeles, Wilmington, and San Pedro and the following points: Huntington Beach, Westminster, Los Alamitos, Artesia, Norwalk, Downey, Bell, Stanton, Buena Park and La Mirada.

VII. Between Los Angeles, Wilmington, and San Pedro and the following points: Rivera, Clearwater, Garden Grove and Long Beach.

VIII. Between Los Angeles, Wilmington, and San Pedro and the following points: Los Angeles, Gardena and Torrance.

IX. Between Los Angeles, Wilmington, and San Pedro and the following points: Sawtelle, Palms, Santa Monica, Venice, Playa del Rey, El Segundo, Manhattan, Hermosa, Inglewood, Redondo, Clifton and Harbor City.

X. Between Los Angeles, Wilmington, and San Pedro and the following points: Santa Barbara, Montecito, Carpinteria, Ventura, Oxnard and Calabasas.

XI. Between Los Angeles, Wilmington, and San Pedro and the following points: Saticoy, Santa Paula, Fillmore, Piru, Saugus, San Fernando, Somis, Moorpark, Simi, Santa Susana, Owensmouth, Van Nuys, Lankershim, Burbank and Glendale.

Applicant proposes a schedule of rates in accordance with Exhibit "A" as attached to and forming a part of the application in this proceeding, also amendment No. 1 to Exhibit "A" as filed at one of the hearings. The proposed schedule and amendment thereto outlines rates on a distance basis on a graduated scale from a minimum of three tons to a maximum of ten tons, also providing special commodity rates based on a percentage of distance rates per ton and per quantity classification on the following commodities: Apples, beans, case goods, citrus fruit, fertilizer, shooks and walnuts.

The schedule proposed by applicant does not provide for a regular service over any of the routes hereinabove mentioned, it being the intention of applicant to supply equipment for the movement of freight as soon as possible after request is made and in no instance later than forty-eight hours from the time request for transportation is made. A detour of five miles on either side of the main traveled highway over the routes hereinabove mentioned is contemplated to be furnished by applicant and as a part of the regular main-line haul.

The equipment proposed to be used by applicant consists of three trucks each of five and one-half tons capacity, seven trucks each of three and one-half tons capacity, six trucks each of two and one-half tons capacity, two trailers each of seven and one-half tons capacity, five each of six tons capacity and eight each of three tons capacity; also one semi-trailer of twelve tons capacity and two each of eight tons capacity.

Applicant relies as justification for the granting of the application herein upon the following alleged facts: That there is a vast tonnage, much of which is perishable in its nature, moving into and out of Los Angeles and Los Angeles harbor points, the carriage of which can best be accomplished by motor trucks, and that the service proposed is in character substantially the same as that at present being rendered by applicant herein.

Applicant is before the Commission in this proceeding requesting a certificate of public convenience and necessity under the provisions of chapter 213, Statutes of 1917, and amendments thereto, on the basis that section 2 of such statutory legislation prohibits the transportation of persons or property for compensation on any public highway in the state except in accordance with the provisions of the statute, and section 1, paragraph C defines the term "transportation company" as every "corporation or person * * * owning, controlling, operating or managing any * * * auto truck * * * used in the business of transportation of persons or property, or as a common carrier for compensation over any public highway in this state between fixed termini or over a regular route, * * *." Applicant claims that the service it proposes to render, and is now rendering, although without certificate, falls within the requirements of the statute and that public convenience and necessity require the authorization by the Railroad Commission of a certificate as prayed for herein.

F. M. Hodge, president of applicant corporation, testified that in the year 1919 he began handling perishable fruits to the cannery of Charles Stern and Sons at Wineville and during the following year also handled shipments for the California Growers Association, operating some five canneries. The entire transportation needs, as regards movement by truck, were handled for these companies, including not only fruit picked up and carried to the canneries but the finished product as contained in cases after the fruits were canned. The business has rapidly grown and in the period from September, 1920, to September 21, 1921, inclusive, Mr. Hodge transported by truck approximately 40,000 tons of freight, such tonnage being segregated among the principal commodities, roughly, as follows:

Apples -----	1776 tons	Lemons -----	3000 tons
Beans -----	625 tons	Lumber -----	200 tons
Boxes -----	100 tons	Machinery -----	243 tons
Case goods -----	8000 tons	Oranges -----	5000 tons
Chemicals -----	500 tons	Paper -----	1250 tons
Fertilizer -----	7000 tons	Peaches -----	5000 tons
Flour -----	215 tons	Shooks -----	1500 tons
Cans -----	91 tons	Pipe -----	500 tons
Corn -----	73 tons	Straw -----	500 tons
Grapes -----	1000 tons	Sugar -----	250 tons
Grapefruit -----	338 tons	Vegetables -----	500 tons
Honey -----	134 tons	Walnuts -----	125 tons

As to the rapidity of the growth of the business the witness testified that in the month of October, 1920, there were handled 1458 tons of all classes of commodities and that in October, 1921, a total of 5236 tons were handled by the facilities of this applicant. There has been a demand for at least twenty-five per cent more tonnage than the applicant has been able to handle and business has been refused for the

reason that applicant, pending a determination on behalf of the Commission as to the pending application, did not care to procure or acquire more equipment, although all old customers have been cared for and when the volume of equipment owned by applicant was not sufficient to meet the demands of traffic, trucks have been hired that the requirements of customers and patrons might be satisfactorily met.

W. T. Webber, sales manager of the California Walnut Growers' Association, such association controlling the product of forty-two packing houses in Southern California, testified that his association used truck transportation because it was quicker, more convenient and in some cases cheaper than other forms of transportation. The convenience arises from the fact that this method of transportation is considered by the witness to be more flexible and the statement of the witness in this regard is of interest and as follows:

I might state as an instance, that if we were to ship a car of walnuts to Chicago and there are two grades in that car, one grade might not be produced at the house from which the car is rolling and, therefore, it would be necessary to send fifty or one hundred bags from another house. Now, we can very quickly get that done by truck. It might move a few miles only. We can get that done in an hour or in two hours, or a matter of that kind. But if we shipped it by rail it would take two or three or four or five days before it got there. Therefore, we can immediately make up our carloads, immediately consolidate them by the use of the trucks and we could not do that by local freight.

Question: That is, there is a quicker movement and a more flexible movement?

Answer: Much quicker and more flexible. The same thing applies to our steamer shipments. The market for our product is seasonal and it is very necessary that we get our walnuts to the early market, to the holiday market, and by using the steamers we can, by employing the trucks to bring the stuff from the packing houses to the steamer, watch the move of the steamer and when it is almost ready to sail we can put our stuff on the dock and save in some cases many days, where if we had to move it by local freight we would have to allow for the slowness of the freight and we can not use the actual sailing dates as the basis for shipment.

This witness testified that the principal movement of the product controlled by his association was from points in Santa Barbara, Ventura, Los Angeles and Orange counties, to Los Angeles and the harbor points and that the product of some thirty-seven packing houses located in such counties moves between the packing houses and Los Angeles and Los Angeles harbor points, also that from 5000 to 7500 tons of walnuts would move during 1921 season; that the service rendered by the applicant had been satisfactory in meeting the transportation requirements of the California Walnut Growers' Association.

The export manager of the California Fruit Growers' Exchange, handling citrus fruits, testified as to the satisfactory service that had been received from applicant in the transportation of citrus fruits between packing houses and to the Los Angeles harbor.

The manager of Charles Stern and Sons, handling canned goods and green fruit, testified that his concern now handles all its product of

canned goods by truck and that satisfactory service had been rendered by applicant.

The secretary of the Agricultural Chemical Works testified as to the satisfactory handling of from 3500 to 4000 tons of chemical fertilizer and products entering into the manufacture of same from Los Angeles harbor points to the factory at Los Angeles.

The inspector of transportation for the Fruit Growers Supply Company testified as to the use of the facilities of the applicant in the handling of box shooks to packing houses controlled by the Fruit Growers Supply Company and as to the frequent necessity of breaking up carloads of shook at Los Angeles and shipping small quantities by truck from Los Angeles to any of the one hundred thirty packing houses supplied by this company in case that any of such packing houses were temporarily short of shook account delayed carloads which might be en route.

The traffic manager of the California Growers' Association, such association being engaged in packing and canning of fruits and vegetables, testified as to the satisfactory and expeditious handing of approximately 18,000 tons of shipments destined to or originating with the packing houses of this association.

The manager of the Harbor Box and Lumber Company, principally engaged in the handling, manufacture and distribution of box shook, testified as to the satisfactory handling of between 500 and 600 tons of shook during the preceding six months.

Other testimony commending the service offered by applicant was given by the district manager of the California Fruit Growers' Exchange; the superintendent of a large cannery at Ontario; the traffic manager of the Pacific R. and H. Chemical Corporation, and the office manager of the Republic Supply Company, handling oil well supplies.

A statement introduced by applicant as an exhibit and marked Exhibit "No. 13" indicates that the total tonnage handled by applicant during the period from September 1, 1920, to September 1, 1921, inclusive, over all routes amounted to 82,803,353 pounds and that of this tonnage 13,730,560 pounds was destined to Los Angeles, 4,163,347 pounds was destined to San Pedro and 5,943,988 pounds was destined to Wilmington. Of the total tonnage, 14,120,861 pounds originated at Los Angeles, 1,309,998 pounds originated at San Pedro and 2,002,327 pounds originated at Wilmington. The total tonnage included in the above figures is in excess of the actual tonnage handled for the reason that frequently in the handling of tonnage from point of origin to destination it would require, in some cases, to move over more than one route, as outlined by applicant herein and as more specifically referred to in the list of routes and points thereon served as previously

listed in the earlier portion of this opinion. At the hearing on this application, applicant filed its amendment No. 1 to Exhibit "A," such amendment providing rates for distances one hundred to one hundred and thirty miles, inclusive, such rates being graduated on a scale of weights ranging from three tons to ten tons, inclusive, and also providing certain commodity rates upon which commodities a percentage of the basic distance rates would be applicable to such commodity rates, the percentage thereto applicable being as follows:

Apples -----	90 per cent of tonnage and distance rates
Beans -----	70 per cent of tonnage and distance rates
Case goods -----	85 per cent of tonnage and distance rates
Citrus fruits -----	90 per cent of tonnage and distance rates
Fertilizer -----	60 per cent of tonnage and distance rates
Shooks -----	70 per cent of tonnage and distance rates
Walnuts -----	85 per cent of tonnage and distance rates

All commodities not specifically provided for under the special distance and tonnage rates above referred to would take the distance rate on the tonnage basis as provided for in the schedule of rates appearing in applicant's Exhibit "A," as originally filed with the application, and amendment No. 1 to Exhibit "A" as filed at the initial hearing on this proceeding, such rates covering a minimum of three tons and a maximum of ten tons, for distances ten miles and under, to and including one hundred and thirty miles, which latter is the maximum distance for which rates are quoted.

The application also contemplates the serving of territory which may be located a maximum distance of five miles on either side of the main highways comprising the various routes herein proposed by applicant, such detours from the main highway to be made over traveled roads and the distance of five miles on either side of the highway comprising the main routes was stipulated by counsel for applicant to mean not a straight line distance at right angle from the highway but a distance of five miles via traveled roads which may lead to or from the main highway on any scheduled route.

The granting of this application is opposed by the Southern Pacific Company, the Atchison, Topeka and Santa Fe Railway Company, the Los Angeles and Salt Lake Railroad Company, and the Pacific Electric Railway Company, all rail carriers in the district in which applicant proposes to operate. Also by practically every freight, express and truck line serving any portion of the routes over which applicant proposes operation in Southern California, as well as by the American Railway Express, which latter operates in connection with the rail carriers already noted as protestants. The application is further protested by the Los Angeles Draymen's Association, a voluntary association composed of the California Truck Company, Citizens'

Truck Company, Pioneer Truck and Transfer Company, Star Truck and Transfer Company and Paul Kent Truck Company, all of whom are engaged in the business of hauling between docks on Los Angeles harbor and the city of Los Angeles. The counsel for this protestant, Los Angeles Draymen's Association, stipulated that the protest of this association was specifically as regards the transportation of shipments between the city of Los Angeles and points on Los Angeles harbor; that no protest was entered against transportation between Los Angeles and other points than those on Los Angeles harbor as proposed to be served by applicant in the list of routes as hereinabove mentioned nor was protest made against the transportation of shipments which might originate at or be destined to Los Angeles harbor points if such shipments originated at or were destined to points other than the city of Los Angeles or intermediate between the city of Los Angeles and Los Angeles harbor points.

Protestant, Southern Pacific Company, through its witnesses, claims to have satisfactory and adequate facilities for the transportation of all commodities which might be offered, at reasonable rates satisfactory to the shipping public, and presented statements as exhibits showing the car service and transit time of eighty-three cars of citrus fruits at Southern California points and destined for movement via San Pedro in the period from January to August, inclusive, 1921, also exhibits showing expenditures which had been made for improvement of freight facilities at its stations in Southern California during the years 1918 to October, 1921, inclusive, such expenditures totaling the sum of \$193,700, the heaviest items of expense, however, and those aggregating over the sum of \$10,000 being as follows:

Replace 100-ton scale with 150-ton scale at Los Angeles, amount.....	\$10,788 00
Construct tracks to serve Los Angeles Union Terminal Company at Los Angeles	25,218 00
Facilities for switch engines at Los Angeles	14,962 00
Install water stand and extend passing track at Moorpark	14,142 00
New water facilities at Cabazon	18,977 00
Repairs to wharves at San Pedro for year 1919	14,192 00
Repairs to wharf at San Pedro for year 1918	10,017 00

It is apparent that many of the principal expenditures as above outlined are not specifically those which might be termed to be fully chargeable to facilitating freight operation nor to the business handled in the territory specifically covered by this application. A considerable amount of the expense is properly chargeable to the conduct of the passenger business, which is not contemplated by applicant herein, and to the handling of freight business much of which is interstate in character and does not require consideration as regards this specific application. A statement was filed by this protestant showing the total

freight proportion of agency pay rolls for the month of July, 1921, at stations located in communities proposed to be served by applicant herein, such statement showing an aggregate monthly expense of \$53,-330. There is, however, no segregation as between the local business for which applicant herein proposes to compete and the through business with which applicant will not be in competition and which through business necessarily constitutes a very considerable volume of protestant's business and which through business, it is assumed, returns the major portion of protestant's freight revenue at the stations covered by this exhibit.

This protestant filed an exhibit showing a comparison of commodity rates between representative points on the line of protestant as against rates proposed by applicant between similar points. This statement shows that practically without exception the rates of applicant are higher than those of this protestant, although it must be considered that the rates of protestant are for service from station to station only, are for carload quantities, and do not include any pick-up or delivery at warehouses or what might be termed "roadside" pick-up and delivery, the rates being for carloads only, and the loading of commodities in carload quantities necessarily being an expense required to be met by the shipper.

Protestant, Pacific Electric Railway Company, through its witnesses, introduced testimony and exhibits showing the character and frequency of service available by the use of the line of this protestant, also rates between points served by its line and also proposed to be served by applicant herein. Exhibits were furnished showing a comparison of rates, both as to class and commodity rates, with those proposed by applicant, and a study of such rate comparison shows that with but few exceptions the rates proposed by applicant are considerably higher as to both classes and commodities than those available for the public by the use of the facilities of this protestant. In almost every case where a lower rate exists on the line of the Pacific Electric Railway such fact is accounted for by the greater distance required to be traversed by applicant company than that if the rails of the Pacific Electric are used. The difference in rates in favor of protestant, Pacific Electric Railway Company, is most marked on the commodity rates as proposed to be made applicable to fertilizer and citrus fruits and the situation as regards the transportation of carload business is comparable to that hereinabove referred to in considering the protest of the Southern Pacific Company, that shippers by rail in carload lots are necessarily required to do their own loading, which is, of course, an expense the cost of which must be considered as one of the items

of transportation. Applicant herein offers a facility, particularly as regards the transportation of fertilizer, in that not alone are the trucks loaded by the employes of the truck company but a distribution at the point of destination is made which conserves expense to the consignee in that roadside deliveries at orchards, ranches and farms can be made at the point most convenient for the user of this commodity.

Practically every motor freight line operating under the jurisdiction of the Railroad Commission in the portions of Southern California proposed to be served by the applicant appeared or were represented as protestants in this proceeding. It is the general contention of these particular protestants that the transportation field by motor truck in the district proposed to be served is now adequately cared for by the existing authorized lines, that ample facilities and service are available for the use of shippers and that the granting of the application would interfere with the ability of existing authorized truck carriers to give the character and class of service to which they are obligated and which they are now offering to the public. The following data has been compiled from statements introduced as exhibits and testimony of this class of protestants:

Equipment Available.

Protestant	Trucks	Trailers	Rated capacity, tons
Los Angeles and Santa Barbara Motor Express Company	10	6	52½
T. R. Rex	5	5	50
Keystone Express	8	4	50
Vance Truck Line	3		10
Chino Express and Transfer	4	2	18
Seal Beach Auto Dispatch	2	1	7½
Union Transfer and Storage Company	9	2	41
Los Angeles and Oxnard Express	5	1	28
Waterman and Carne	6	2	86
Los Angeles and San Pedro Transportation Company	12	10	71½
Service Motor Express	8	3	30
Independent Truck Company	5	3	35
Thos. Richards Motor Express	12	3	63
Rice Transportation Company	7	1	25
Ojai, Ventura and Los Angeles Express	6	2	28
S. and M. Transfer Company	3	2	10
Van Nuys Truck Company	5	1	21
Triangle-Orange County Express	15	6	40
Totals	125	54	672½

Investment in Equipment, Terminals and Accessories.

Protestant	Investment		Total
	Equipment	Terminals, etc.	
T. R. Rex.....	\$25,000	\$2,500	\$27,500
Keystone Express.....	26,300	1,200	27,500
Vance Truck Line.....	10,000		10,000
Chino Express and Transfer.....	16,314	1,000	17,314
Seal Beach Auto Dispatch.....	5,300	400	5,700
Union Transfer and Storage Company.....	20,460	4,000	24,460
Los Angeles and Oxnard Express.....	21,000	9,000	30,000
Waterman and Carne.....	28,000	2,900	30,900
Los Angeles and San Pedro Transportation Company.....	57,421	4,540	61,961
Service Motor Express.....	16,000	500	16,500
Independent Truck Company.....	12,500	1,000	13,500
Thos. Richards Motor Express.....	29,990	5,067	35,057
Rice Transportation Company.....	17,281	1,092	18,373
Ojai, Ventura and Los Angeles Express.....	30,000	1,500	31,500
S. and M. Transfer Company.....	11,000	3,000	14,000
Van Nuys Truck Company.....	24,000	1,000	25,000
Triangle-Orange County Express.....	15,540	4,000	19,540
Totals.....	\$366,106	\$42,699	\$408,805

Estimated Percentage of Full Truck Load Haul.

Protestant	Proportion of business, June to August, 1921, inclusive, that was full truck load haul
	Per cent
T. R. Rex.....	50
Keystone Express.....	5
Vance Truck Line.....	25
Chino Express and Transfer.....	10
Seal Beach Auto Dispatch.....	65
Union Transfer and Storage Company.....	50
Waterman and Carne.....	35
Los Angeles and San Pedro Transportation Company.....	60
Service Motor Express.....	45
Independent Truck Company.....	10
Rice Transportation Company.....	32½
Ojai, Ventura and Los Angeles Express.....	20
Los Angeles and Oxnard Express.....	40

An exhibit was filed by protesting motor carriers, operating under the jurisdiction of the Railroad Commission as common carriers, showing a comparison of rates of the present authorized lines with the rates proposed by applicant herein. This comparison shows a total of seven hundred seventy-four rates which were considered and, of this number, with the exception of one hundred forty-three, all the rates of applicant are higher than those of the protestants and, in the instances where rates are lower, such rates are, in the majority, those quoted on

ten-ton lots as to what may be termed "class rates," and as regards commodity rates are principally in nine and ten-ton lots, with but few instances where a lower scale is prescribed covering the entire schedule as ranging from three to ten tons inclusive as proposed by applicant.

As to the protest of the Los Angeles Draymen's Association, a voluntary organization, comprised of trucking companies operating principally between Los Angeles and Los Angeles harbor points, the base rate as charged by this association is \$2.50 per ton, to which must be added \$1 per ton if a pick-up and delivery service is performed in the city of Los Angeles. In addition to the so-called "base rate," the association publishes a schedule of commodity rates ranging from \$1.20 per ton to \$4 per ton, such rate applicable between Los Angeles and San Pedro-Wilmington and to which also must be added, when pick-up and delivery is performed in Los Angeles, the sum of \$1 per ton. A comparison of the association rates with those of the applicant (applicant's rates including pick-up and delivery without charge) indicates that for lots of three to ten tons, inclusive, under the class rates, that the rates proposed by applicant are less than those of the association, when shipments move between Los Angeles and Wilmington. As regards shipments between Los Angeles and San Pedro, the rates of applicant on class rates are higher on shipments three to six tons, inclusive, the same rate appearing on a seven-ton shipment, and rates eight to ten tons, inclusive, being lower than those of the association.

In general, as regards the matter of rates, those herein proposed by applicant are greater than those existing by the lines of the authorized carriers, there being some few exceptions where a lesser rate is proposed and such lesser rate usually occurs where a ten-ton shipment, either under the class or commodity rate, is to be handled.

No evidence was presented on behalf of protestants, Atchison, Topeka and Santa Fe Railway Company and Los Angeles and Salt Lake Railroad Company. These protestants serve territory also served by the Pacific Electric Railway Company and Southern Pacific Company at equivalent rates and the situation as regards these protestants is comparable with that of protestants, Pacific Electric Railway Company and Southern Pacific Company.

We have given careful consideration to all the evidence and the voluminous exhibits introduced by both applicant and protestants in this proceeding. We are of the opinion and find as a fact that applicant proposes a service that is required by the public convenience and necessity in that an expedited service for quantity shipments is offered and that such service has heretofore been rendered by applicant in considerable volume and has satisfactorily met the requirements of the shipping public. There is no evidence before the Commission indicating

that any carrier appearing herein as protestant has heretofore satisfactorily met the demand for expedited service as furnished by applicant for which authority is now requested. The rates proposed by applicant, as heretofore considered in more specific detail, are in the great majority of instances higher than those proposed by existing carriers either by rail or motor truck and the basis for such higher rates is the superior expedited service which has been rendered. None of the motor truck companies operating under the jurisdiction of the Commission, and appearing as protestants herein, are able to cover the territory herein proposed to be served by applicant, without the necessity of a transfer at some point, usually Los Angeles. The transfer of shipments necessarily means delay, even if all arrangements will have been made to have trucks ready for loading upon the arrival of other trucks at a transfer point. It is our opinion, and we hereby find as a fact, that the service proposed by applicant is such that applicant is in the business of transportation of property for compensation over the public highways as comprised within the scope of this application and between fixed termini and over regular routes and that for such form of transportation a certificate of public convenience and necessity is required from the Railroad Commission in accordance with the provisions of chapter 213, Statutes of 1917, and amendments thereto.

We further find from the testimony and exhibits herein that applicant has not justified operation over the proposed Route No. 6 as regards intermediate points between Los Angeles, Wilmington, San Pedro and Huntington Beach and the order herein will be conditioned eliminating the intermediate points of Westminster, Los Alamitos, Artesia, Norwalk, Downey, Bell, Stanton, Buena Park and La Mirada.

In view of the foregoing findings of fact we are of the opinion that a certificate of public convenience and necessity should be issued to applicant herein which will authorize the character of service which has heretofore been satisfactorily rendered by applicant to its patrons, but that such certificate should be limited as to commodities which may be handled and not constitute an authorization for the general handling of all classes of commodities or for the establishment of a regular service on quantities less than those herein proposed by applicant. We are of the opinion that all products of agriculture, and other commodities necessary in their production, manufacture and distribution, should be included in the authorization granted, as well as oil well supplies and machinery, but that a general authorization for the carriage of all commodities should not be granted, it appearing from the evidence in this proceeding that applicant is desirous of securing authorization for the continuance of the service heretofore established. The order, therefore, will be conditioned as regards the commodities

to be handled and if a demand exist in future for the transportation of additional classes of commodities an application should be made to the Commission and a showing be thereafter made as to the public necessity and convenience requiring their transportation.

ORDER.

Public hearings having been held in the above entitled proceedings, the matter having been duly submitted and the Commission being fully advised, and basing its order on the findings of fact as appearing in the opinion preceding this order:

The Railroad Commission hereby declares that public convenience and necessity require the operation by Hodge Transportation System, a corporation, of a motor truck freight service over the following routes:

I. Between Los Angeles, Wilmington, and San Pedro and the following points: Cabazon, Banning, Beaumont, Riverside, San Jacinto, Hemet, Perris, Alessandro, Temecula, Murrietta, Elsinore, Highgrove, Wineville, Ontario, Chino, Pomona, Spadra, Puente, Bassett, El Monte.

II. Between Los Angeles, Wilmington, and San Pedro and the following points: Beaumont, Yucaipa, Redlands, Colton, Bloomington and South Cucamonga.

III. Between Los Angeles, Wilmington, and San Pedro and the following points: Victorville, Hesperia, San Bernardino, East Highlands, Highland, Rialto, Fontana, Etiwanda, Cucamonga, Alta Loma, Upland, Claremont, La Verne, San Dimas, Covina, Glendora, Azusa, Duarte, Monrovia, Sierra Madre, Lamanda Park, San Gabriel, Alhambra, Altadena and Pasadena.

IV. Between Los Angeles, Wilmington, and San Pedro and the following points: Capistrano, Irvine Station, Tustin, Santa Ana, Villa Park, Modena, Orange, Anaheim, Fullerton, Brea, La Habra, Leffingwell, Whittier and Montebello.

V. Between Los Angeles, Wilmington, and San Pedro and the following points: Yorba, Richfield, Olinda, Placentia, Casa Blanca, Arlington and Corona.

VI. Between Los Angeles, Wilmington, and San Pedro and Huntington Beach, excepting, however, that no service shall be rendered to points intermediate between Huntington Beach and Los Angeles. Wilmington and San Pedro, the intermediate communities herein excluded being as follows: Westminster, Los Alamitos, Artesia, Norwalk, Downey, Bell, Stanton, Buena Park and La Mirada.

VII. Between Los Angeles, Wilmington, and San Pedro and the following points: Rivera, Clearwater, Garden Grove and Long Beach.

VIII. Between Los Angeles, Wilmington, and San Pedro and the following points: Los Angeles, Gardena and Torrance.

IX. Between Los Angeles, Wilmington, and San Pedro and the following points: Sawtelle, Palms, Santa Monica, Venice, Playa del Rey, El Segundo, Manhattan, Hermosa, Inglewood, Redondo, Clifton and Harbor City.

X. Between Los Angeles, Wilmington, and San Pedro and the following points: Santa Barbara, Montecito, Carpinteria, Ventura, Oxnard, Calabasas.

XI. Between Los Angeles, Wilmington, and San Pedro and the following points: Saticoy, Santa Paula, Fillmore, Piru, Saugus, San Fernando, Somis, Moorpark, Simi, Santa Susana, Owensmouth, Van Nuys, Lankershim, Burbank and Glendale.

The authority hereby contained also includes operation over territory which may be located a maximum distance of five miles on either side of the main highway comprising the various routes hereinabove mentioned, such detours from the main highway to be made over traveled roads and the distance of five miles on either side of the highway comprising the main routes as hereby stated to mean not a distance measured at a right angle but the distance via traveled roads which may lead to or from the main highway on any of the above scheduled routes.

It is hereby ordered, that a certificate of public convenience and necessity be and the same hereby is granted to Hodge Transportation System, a corporation, covering the routes hereinabove specifically mentioned and subject to the following conditions:

I. The minimum weight of any individual shipment which may be transported under the provisions of this certificate, over the routes herein authorized, shall be three tons.

No authority is hereby conferred for the establishment of regular scheduled operation or for the carriage of commodities other than herein specified.

The commodities herein authorized to be transported, in lots of not less than three tons as the total of any individual shipment, are those constituting the products of agriculture and other commodities necessary in the production, manufacture and distribution of agricultural products.

These authorized commodities would include fruits, vegetables, nuts, lumber, boxes, shooks, cans, paper, pipe, chemicals, fertilizer, agricultural and packing house machinery, ease goods, etc. The carriage of oil well supplies and machinery is also included in the authorized commodities to be transported by applicant herein.

No other commodities than those hereinabove specified may be transported unless so authorized by this Commission after the filing of proper application and a decision thereon.

II. Applicant herein shall within fifteen (15) days from the date of this order file with the Railroad Commission a written acceptance of the terms of this order and the certificate thereby granted; and shall within thirty (30) days from the date of this order file with the Railroad Commission its complete schedules of tariff rates and rules and regulations governing same in accordance with the provisions of this Commission's General Order No. 51 and Exhibit "A" and amendment No. 1 to Exhibit "A" of the application in this proceeding; and shall further file with the Railroad Commission statement stating the date upon which the service proposed to be rendered will be established and operation commenced. Failure to file with the Railroad Commission, as hereinabove ordered, the acceptance of the terms of this order and certificate, the schedules of tariff rates, rules and regulations, or of the date upon which operation will commence, will, unless otherwise ordered by supplemental order of this Commission, cancel and render void the order herein without further action by the Railroad Commission.

III. The rights and privileges hereby granted may not be assigned, leased, transferred, hypothecated, or sold, nor operation thereunder suspended or discontinued unless the written consent of the Railroad Commission to such assignment, lease, transfer, hypothecation, sale, suspension or discontinuance of operation has first been secured.

IV. No vehicle may be operated under the authority conferred by this certificate unless such vehicle is owned by the applicant herein or is leased by such applicant under a contract or agreement on a basis satisfactory to the Railroad Commission. All operation conducted under the authority conferred by this certificate shall be in accordance with the operating rules and safety regulations of the Railroad Commission as contained in Decision No. 4814 on Case No. 1110, as decided November 6, 1917.

Dated at San Francisco, California, this twelfth day of April, 1922.

DECISION No. 10297.

AMERICAN RAILWAY EXPRESS COMPANY

vs.

THE PACIFIC STATES EXPRESS, A CORPORATION, RICHARDS TRUCK-
ING AND WAREHOUSE COMPANY AND MERCHANTS EXPRESS
AND DRAYING COMPANY.

Case No. 1739.Decided April 12, 1922.

Sanborn and Rochl, by *A. B. Rochl*, for Complainant and Petitioner.*Derlin and Brookman*, by *F. R. Derlin* and *Douglas Brookman*, for Pacific States
Express.*C. H. Tribit, Jr.*, for Richards Trucking and Warehouse Company.*L. N. Bradshaw*, for the Southern Pacific Company.*C. W. Cornell*, for Pacific Electric Railway Company.

BY THE COMMISSION.

ORDER DISMISSING ORDER,**SUSPENDING TARIFF C. R. C. No. 1 AND ORDER TO SHOW CAUSE.**

An order having been heretofore made by this Commission on April 5, 1922, in the above entitled proceeding, ordering that **Tariff C. R. C. No. 1** of the Pacific States Express be suspended on April 15, 1922, and further ordering that the above named defendants, and each of them, show cause before Commissioner Benedict on April 11, 1922, why the said order of suspension of said **Tariff C. R. C. No. 1** should not remain in effect during the pendency of proceedings before this Commission in said matter:

A hearing having been held on said order to show cause and arguments having been made by all parties, and the matter having been submitted for decision, and good cause appearing therefor;

It is hereby ordered, that the order of the Railroad Commission of the State of California of April 5, 1922, in the above entitled proceeding, ordering that **Tariff C. R. C. No. 1** of Pacific States Express be suspended on April 15, 1922, be and the same is dismissed, vacated and annulled.

It is further ordered, that the complaint herein, and said order to show cause made by the Commission in said proceeding on April 5, 1922, be and the same are dismissed.

Dated at San Francisco, California, this twelfth day of April, 1922.

DECISION No. 10298.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR AN ORDER AUTHORIZING IT TO ISSUE ONE HUNDRED SEVENTY THOUSAND DOLLARS FACE AMOUNT OF ITS GENERAL AND REFUNDING MORTGAGE SIX PER CENT TWENTY-FIVE-YEAR GOLD BONDS OF THE "SERIES OF 1919."

Application No. 7691.Decided April 12, 1922.

A. N. Kemp, for Applicant.

BRUNDIGE, Commissioner.

OPINION.

Southern California Edison Company asks permission to issue \$170,000 face value of its general and refunding 25-year 6 per cent "Series of 1919" bonds in exchange for \$170,000 face value of San Gabriel Electric Company 6 per cent bonds due April 1, 1928.

The San Gabriel Electric Company bonds are callable on any interest payment date at 104 and accrued interest. It appears that some of the properties which constitute the security for the payment of the San Gabriel Electric Company bonds are located within the city of Los Angeles. The company has been authorized to sell some of its Los Angeles properties to the city of Los Angeles. In order to effect this transfer, it will be necessary to secure a release of the properties from the lien of the San Gabriel Electric Company deed of trust. A. N. Kemp, a vice president of the Southern California Edison Company, testified that in his opinion it would be to the benefit and interest of the company to refund the \$170,000 face value of San Gabriel Electric Company bonds through the issue of its general and refunding bonds and payment of the premium in cash rather than attempt to secure the release of the properties from the lien of the deed of trust. To secure the release of the properties located within Los Angeles, it would be necessary for the company to deposit a certain amount of cash with the trustee. It is believed that the deposit of such cash will in the end be more expensive than the refunding of the bonds as proposed, and the cancellation of the deed of trust.

I herewith submit the following form of order:

ORDER.

Southern California Edison Company having applied to the Railroad Commission for permission to issue \$170,000 of its general and refunding bonds, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by appli-

cant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Southern California Edison Company be and it is hereby authorized to issue \$170,000 face value of its general and refunding 25-year 6 per cent "Series of 1919" bonds and deliver such bonds at par in exchange for a like amount of San Gabriel Electric Company bonds at 104, the 4 per cent premium being payable in cash.

The authority herein granted is subject to further conditions as follows:

1. Southern California Edison Company shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

2. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee amounts to \$170.

3. The authority herein granted will apply only to such bonds as may be issued on or before November 1, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twelfth day of April, 1922.

DECISION No. 10299.

IN THE MATTER OF NORTH MONETA GARDEN LANDS WATER COMPANY, A CORPORATION, AND THE BERLIN REALTY COMPANY.

Application No. 7419.

W. FRANK WATTS, AS ADMINISTRATOR, WITH THE WILL ANNEXED, OF THE ESTATE OF WILLIAM HOUSLEY WORLEY, DECEASED,

vs.

NORTH MONETA GARDEN LANDS WATER COMPANY, A CORPORATION, AND BERLIN REALTY COMPANY, A CORPORATION.

Case No. 1707.

Decided April 12, 1922.

H. C. Leroy, for Applicant, Application No. 7419.
W. E. Evans, for Consumers, Application No. 7419.
S. W. Thompson, for Consumers, Application No. 7419.
Chas. R. McCarty, for Petitioner, Case No. 1707.
H. C. Leroy, for Defendant, Case No. 1707.

BY THE COMMISSION.

OPINION.

North Moneta Garden Lands Water Company, applicant herein, is a public utility water company, furnishing water for domestic and irrigation purposes to persons residing in section 15, township 3 south, range 14 west, San Bernardino Base and Meridian, in the county of Los Angeles.

In Application No. 7419, applicants ask that the Railroad Commission authorize the transfer of their water system to five persons named in its petition, who represent the consumers served by it. Applicants allege in effect that the proposed transfer of the property has the sanction of and is desired by the consumers served by the system.

In Case No. 1707, petitioner asks that the Commission order respondents to restore water service to the property of the late William Housley Worley, represented by W. Frank Watts as administrator of the estate. It is alleged that the property was formerly supplied by North Moneta Garden Lands Water Company but that service was discontinued, owing to deterioration of the pipe system, and that respondents have since refused to resume the supply.

A public hearing in these matters was held at Los Angeles before Examiner Williams, all consumers having been duly notified and having been given an opportunity to be present and to be heard.

The issues involved in these proceedings are closely related and it was stipulated that they might be consolidated for hearing and decision.

The North Moneta Garden Lands Water Company was organized in 1904 in connection with and incidental to the subdivision, development and sale of lots in tract No. 874, in Los Angeles County. The utility has previously appeared before this Commission in other proceedings, and, for a history of the company and a general description of its water system, reference is hereby made to Decision No. 2112 in Application No. 1283, and to Decision No. 7880 in Application No. 5426.

As the tract in which the utility operates was developed and homes built upon it, the demands for water service greatly increased, and the company has failed to keep pace with the development and has not made the betterments and repairs necessary to furnish adequate service to its consumers. The time has now come when a considerable expenditure is needed to put the system in proper condition and the company does not desire to make this expenditure, but asks the consumers to take over the system free of charge and to thereafter operate it.

It appears that there is considerable opposition to the plan of transfer proposed by the owners of the system, and that the committee of consumers named in the application is not in any way truly representative of the majority, nor does this committee desire to obligate itself or

the individual members to assume any responsibility for the management or for the raising of funds for the general betterment of conditions.

It is therefore evident that proper provision has not been made to protect the interests of consumers, and that the application should be denied.

The evidence presented in Case No. 1707 shows that pipe was at one time laid to the property of complainant and service was rendered. Later this pipe became rusted and broken to such an extent that water could not be conveyed through it. Service was thereupon discontinued. Such discontinuance was protested by petitioner at that time and subsequently, but without avail. Service to this property should be resumed.

ORDER.

North Moneta Garden Lands Water Company and the Berlin Realty Company having made application for authority to transfer the water system serving tract No. 874, Los Angeles County, to a committee of five of its consumers, and W. Frank Watts, administrator of the estate of William Housley Worley, deceased, having made complaint against the North Moneta Garden Lands Water Company, a public hearing having been held in both proceedings, and the matters having been submitted:

It is hereby found as a fact that the interests of consumers will be best served by a continuation of operation of the North Moneta Garden Lands Water Company by the present owners.

It is hereby further found as a fact that the property of William Housley Worley, deceased, is within the territory served by the North Moneta Garden Lands Water Company, was formerly served by that company, and that service to said property should be resumed.

And basing its order on the foregoing findings of fact and upon the further statements of fact contained in the opinion which precedes this order;

It is hereby ordered, that the above entitled application be and the same is hereby denied.

It is hereby further ordered, that the North Moneta Garden Lands Water Company be and the same is hereby directed to proceed at once and complete within the shortest practicable time such repairs or replacements to its water system as are necessary to resume service to the property of William Housley Worley, deceased, and upon the completion of such repairs or replacements to resume service of water to said premises.

Dated at San Francisco, California, this twelfth day of April, 1922.

DECISION No. 10302.

IN THE MATTER OF THE APPLICATION OF SAN JOSE RAILROADS, A CORPORATION, FOR AUTHORITY TO ABANDON AND REMOVE CERTAIN PORTIONS OF ITS RAILWAY TRACKS IN THE CITY OF SAN JOSE AND TO SINGLE TRACK A CERTAIN PORTION OF ITS RAILWAY TRACKS IN SAID CITY.

Application No. 7250.

IN THE MATTER OF THE APPLICATION OF SAN JOSE RAILROADS, A CORPORATION, FOR AUTHORITY TO ABANDON ITS BUS SERVICE OVER HOBSON STREET IN THE CITY OF SAN JOSE, CALIFORNIA.

Application No. 7359.

IN THE MATTER OF THE APPLICATION OF PENINSULAR RAILWAY COMPANY, A CORPORATION, TO ABANDON CERTAIN OF ITS TRACKS, TO SUSPEND SERVICE OVER CERTAIN OF ITS TRACKS AND TO REROUTE CERTAIN OF ITS CARS IN THE CITY OF SAN JOSE, CALIFORNIA.

Application No. 7360.

IN THE MATTER OF THE APPLICATION OF SAN JOSE RAILROADS, A CORPORATION, FOR AUTHORITY TO SUSPEND AND TO ABANDON SERVICE IN THE TOWN OF SANTA CLARA, CALIFORNIA.

Application No. 7361.

IN THE MATTER OF THE APPLICATION OF SAN JOSE RAILROADS, A CORPORATION, FOR AUTHORITY TO REROUTE CERTAIN OF ITS CARS IN THE CITY OF SAN JOSE, CALIFORNIA.

Application No. 7362.

Decided April 12, 1922.

SERVICE—ABANDONMENT OF—UNDUE BURDEN ON SYSTEM.—The continuance of branch lines showing great disparity between the operating revenues and the cost of operation is declared to result in undue burden to the users of the transportation system as a whole and to militate against the company's ability properly to serve its patrons.

Lieb and Lieb, and *Wm. F. James*, for Applicants.

Archer Bowden, city attorney, and *C. B. Goodwin*, city manager, for City of San Jose.

Jules Rose, Protestant in Application No. 7361.

C. C. Coolidge, for Town of Santa Clara, Protestant in Application No. 7361.

Mrs. Addie Green, Protestant in Application No. 7359.

C. W. Davison, for residents of Keyes street, Protestants in Application No. 7250.

BY THE COMMISSION.

OPINION.

San Jose Railroads, a corporation, in Application No. 7250, petitions the Railroad Commission for an order authorizing the abandonment of its franchise and service and the removal of its tracks on that portion of its street railway system in the city of San Jose located on Keyes street from its intersection with Tenth street to the end of the track on said Keyes street; also to substitute a single track line for its present double track line on Tenth street, San Jose, from Reed street to Keyes street.

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San Jose Railroads, a corporation, in Application No. 7359, petitions the Railroad Commission for an order authorizing the abandonment of franchise and operation of bus service over Hobson street in the city of San Jose, from its intersection with First street, to Walnut street.

Peninsular Railway Company, a corporation, in Application No. 7360, petitions the Railroad Commission for an order authorizing the abandonment of its franchise upon and service over San Carlos street in the city of San Jose, from First street to Fifteenth street, for the removal of its rails and equipment from San Carlos street, between Seventh street and Fifteenth street at the present time, and to remove its rails and equipment from San Carlos street, between First street and Seventh street, when such portion of the street is improved by the city of San Jose or by the property owners on such street.

San Jose Railroads, a corporation, in Application No. 7361, petitions the Railroad Commission for an order authorizing the abandonment of service on Saratoga avenue from the southerly limits of the town of Santa Clara to Bellomy street, upon Bellomy street from its intersection with Saratoga avenue to its intersection with Lincoln street, upon Lincoln street from its intersection with Bellomy street to its intersection with Franklin street, upon Franklin street from its intersection with Lincoln street to its intersection with Jefferson street; and to suspend operation of the so-called depot line service upon Franklin street from the Southern Pacific station in Santa Clara to the intersection of Franklin street with Jefferson street.

San Jose Railroads, a corporation, in Application No. 7362, petitions the Railroad Commission for an order authorizing the suspension of operation of its Seventh street (San Jose) line over Third street, San Antonio street, Second street and St. John street, between Reed street and First street, and to operate said line from Keyes street over Seventh street to Reed street, over Reed street to First street, and over First street to the Southern Pacific depot in San Jose.

A public hearing on the above entitled applications was conducted by Examiner Handford at San Jose. the matters were consolidated by stipulation for the receipt of evidence and for decision, were duly submitted, and are now ready for decision.

It was stipulated at the hearing that the "Report on Service Operating and Financial Conditions of San Jose Railroads Company and Peninsular Railway Company," of the Commission's engineering department, filed as an exhibit (Commission's Exhibit No. 2) in Applications Nos. 6413 and 6414 would, as far as applicable, be considered as evidence in these proceedings. Applications Nos. 6413 and 6414 are

applications filed by Peninsular Railway Company and San Jose Railroads Company, respectively, asking authority to increase passenger rates.

As applicable to all the matters herein considered, exhibits were filed by the San Jose Railroads and Peninsular Railway Company showing operating revenues, operating expenses and income account for an eleven months' period ending November 30, 1921, identified as applicant's Exhibit "A."

This exhibit is a regular periodical report of applicant, similar, except as to period, to exhibits filed in Applications Nos. 6413 and 6414, and the conclusions to be drawn from it must, and have been, considered along with the conclusions drawn from similar reports as discussed in Commission's Exhibit No. 2 in the rate cases, Applications Nos. 6413 and 6414, and with Decisions Nos. 9823 and 9824, respectively, in these applications.

An exhibit furnished by applicant, San Jose Railroads, in Application No. 7250, shows the result of a check of passengers alighting or boarding street cars on Keyes street for the period August 3 to August 9, 1921, inclusive, such exhibit showing an average of 133 $\frac{5}{7}$ passengers per day. A check made on December 30, 1921, and covering traffic between Tenth and Keyes streets and the terminus of the line, showed 95 passengers to have been carried, of which number 48 boarded or left the cars at the terminal of the line and the other 47 passengers were carried to or from some point between the terminus and the intersection of Tenth and Keyes streets. The total number of one-way trips operated on this line daily is 152, the schedule being on a fifteen-minute headway between the hours of 6.00 a. m. and 3.30 p. m., on a twelve-minute headway between the hours of 3.30 p. m. and 8.00 p. m., and on a fifteen-minute headway between the hours of 8.00 p. m. and 12.00 p. m.

One of the reasons alleged by applicant in its prayer for the granting of this application is the desire to relieve itself of the obligation for the payment of its proportion of the paving of Keyes street, should same be authorized, this including the necessary reconstruction incident to paving work, being the sum of \$44,615.96, and applicant claims that it is not in a financial condition to make the capital expenditure required, having no money on hand with which to meet such expense, nor is it in position to borrow to meet the investment that would be required and which is apparently not justified by the limited amount of traffic offering over Keyes street where it is proposed to suspend service and abandon its tracks. Applicant estimates that an annual saving by the granting of this application will amount to \$7,063.58 and an estimate made by the Engineering Department of this Commission indicates that a saving of approximately \$3,595 per annum

may be expected should the proposed abandonment be authorized by the Commission.

The granting of Application No. 7250 is opposed by residents of Keyes street and adjacent territory served by the line and petitions were presented signed by ninety-one property owners objecting to any change in the number of cars operated, the time of operation or the removal of tracks and abandonment of franchise.

The automobile bus service for which authority for abandonment is requested by applicant, San Jose Railroads, in Application No. 7359 is the service established by order of this Commission in Decision No. 5160 on Application No. 2361 as decided February 26, 1918, such bus service having been established in lieu of the former narrow-gauge street car operation conducted over Hobson street between First and Walnut streets. A statement filed as an exhibit by applicant and covering the months of January to November, inclusive, 1921, shows the total receipts of this bus line to have been \$732.93, the expense of operation during the same period was \$5,584.38, or a net operating loss of \$4,851.45. It is apparent that the serious operating loss occasioned by the continuance of this bus service on Hobson street does not indicate an active demand on the part of patrons of this applicant for a continuation of the service in that the patronage accorded does not even approximate the expense of conducting the operation although patrons using such line have the benefit of transfers to and from other lines of applicant's system of street railways in San Jose. There was no evidence introduced at the public hearing protesting the proposed abandonment of bus service although statements were made by residents served by the Hobson street bus line objecting to the discontinuance of service even though its continued operation resulted in substantial loss.

In Application No. 7360 applicant, Peninsular Railway Company, presented an exhibit showing the number of persons alighting from and boarding Naglee Park car on East San Carlos street between First and Fourteenth streets, during the period from October 11 to October 21, 1921, inclusive. This car operates sixty-seven trips daily, with an average number of passengers per trip in the district between First and Fourteenth streets of 4 1/8; the average number of trips upon which no passengers were carried between First and Fourteenth streets was eight trips per day; the average maximum load carried between First and Fourteenth streets was sixteen passengers per day.

No evidence was introduced in protest of this application and the substitute service therein proposed is apparently satisfactory to the patrons of applicant.

In Application No. 7361 applicant, San Jose Railroads, introduced as an exhibit a check of the passengers carried on the car operating from the Southern Pacific Company's station in Santa Clara along Franklin street to the intersection of Franklin and Jefferson streets, such car also operating from Jefferson and Franklin streets to the end of the line at Saratoga avenue three round trips per day, such exhibit showing that for the period November 15 to December 31, 1921, inclusive, a total of 1011 passengers were transported with a revenue of \$54.87, being an average of 22 passengers per day and an average revenue of \$1.20 per day. On this basis the estimated gross receipts per annum would be the sum of \$438, against which must be charged the expense of operation amounting to \$2,985.70 per annum, or a net loss of \$2,547.70. The operation of this car has been intended to serve all the principal Southern Pacific Company's trains arriving at or departing from the station of Santa Clara.

The granting of this application is opposed by residents and business men of the town of Santa Clara and a petition was filed at the hearing signed by sixty-six business men protesting against the suspension of operation of the so-called "Depot Car" and also petitioning that the Peninsular Railway Company and San Jose Railroads be compelled to operate street cars on the lines in Santa Clara in accordance with franchise requirements and on a regular schedule.

The operation of this line, notwithstanding that same is conducted by a one-man car, indicates that no patronage sufficient to justify the continuance of operation is being accorded by the public and there was no evidence offered at the hearing which would indicate that any re-arrangement of schedules or service could be made which would result in the line operating on a basis that would at least meet the bare operating costs.

In Application No. 7362, applicant, San Jose Railroads, offered no evidence other than the financial statement covering results of operation for the eleven months period as hereinabove referred to and a reference to the report of the engineering department of the Railroad Commission. This application is for the rerouting of certain cars, originally recommended by the engineering department of the Commission and such recommendation was referred to in the opinion preceding the order on Application No. 6414 (Decision No. 9824 as decided November 29, 1921) in the following language:

In the first quotation it is noted that \$3,000 additional revenue is estimated as resulting from the recommendation to route the Seventh street line along First street. The general manager for applicant, a witness, took exception to this and stated that in his opinion no additional revenue could be so obtained. The engineer responsible for this particular estimate explained how he had arrived at this figure and it was arranged that the matter should be jointly reviewed. As a result, it is estimated that \$1,000 per year additional revenue could be expected.

In Decision No. 9824 the amount of \$1,000.00 above is restated at approximately \$500.00.

No protest to the granting of this application was made at the hearing and the matter is one in which no track abandonment is contemplated, applicant proposing to re-route certain of its lines in the city of San Jose and such rerouting being proposed following a recommendation of the engineering department of this Commission which was made in connection with a detailed traffic and service study following the application of San Jose Railroads for increased passenger fares. It was the conclusion of the engineering department, following such detailed study, that a rerouting of cars as herein proposed by applicant would reduce operating expenses and without inconvenience to the public served by the line proposed to be rerouted and the instant application is made for authority to so reroute cars in accordance with the recommendation of this Commission's engineering department.

The Commission has carefully considered the evidence and exhibits as presented in connection with the foregoing applications and although there is some protest against the granting of some of the applications we are of the opinion that a satisfactory showing has been made justifying the Commission in granting all of the applications herein.

Ordinarily the Commission is slow to authorize any change or adjustment of service conditions or abandonment of track, when such change or abandonment is objected to by the patrons of the respective companies. In these instances, however, we have a condition where this Commission has recently denied an application of San Jose Railroads for an increase in passenger fares (Decision No. 9824 in Application No. 6414) and has in its denial directed the attention of applicant, San Jose Railroads, to certain suggested economies which might be effected by a change in operating methods, rerouting of lines, and possible abandonment of some portions of unprofitable service.

The changes contemplated in Applications Nos. 7359, 7361 and 7362 were among these. The continuance of branch lines where such a great disparity exists between the operating revenues and the cost of conducting such operation as appears in some of the instances now before the Commission results in an undue burden being placed upon the users of the transportation system as a whole and militates against the company's ability to properly serve its patrons.

All the applications herein, excepting Application No. 7362, contemplate the abandonment of franchise, suspension of operation and removal of tracks, and applicant companies will necessarily be required to secure from the proper authorities the requisite permission for abandonment of tracks and relief from the provisions of their franchise

obligations as may be necessary to comply with existing ordinances and the order in these proceedings will be so conditioned.

ORDER.

Public hearings having been held in the above entitled proceedings, the matters having been duly submitted and the Commission being fully advised;

It is hereby ordered, that these applications be and the same hereby are granted subject, however, to the following condition:

That applicants, San Jose Railroads and Peninsular Railway Company, before abandoning or removing any tracks or suspending any operation thereover as may be required by franchise conditions, shall first secure permission from the grantor of such franchise rights and privileges for the suspension of operation, abandonment or removal of tracks and for a relinquishment of such portions of franchises under which abandonment and removal of tracks are herein proposed and applicants, San Jose Railroads and Peninsular Railway Company, shall file with this Commission certified copies of ordinances or resolutions granting such relinquishment of portions of franchises or relief from franchise obligations prior to exercising the approval of the Commission granting the applications herein.

The Railroad Commission reserves the right to make such other and further orders in these proceedings as to it may seem right and proper or as the public convenience and necessity may require.

Dated at San Francisco, California, this twelfth day of April, 1922.

DECISION No. 10303.

IN THE MATTER OF THE APPLICATION OF EL DORADO WATER COMPANY FOR AN ORDER TO MODIFY AND CHANGE ITS RATES FOR FURNISHING WATER.

Application No. 7515.

Decided April 12, 1922.

Greene and Sinclair, by *B. D. Marx Greene*, for Applicant.
W. F. Bray, for City of Placerville.

BY THE COMMISSION.

OPINION ON REHEARING.

This Commission by Decision No. 10166, dated March 7, 1922, made its order modifying and changing rates charged consumers by El Dorado Water Company, effective for all water delivered to consumers subsequent to March 31, 1922, except the supply furnished the city of Placerville under the terms and conditions of a certain contract which expires September 26, 1923. This contract,

dated September 26, 1873, was entered into by El Dorado Water and Deep Gravel Mining Company and Francis A. Bishop. El Dorado Water Company is the successor to the interests of El Dorado Water and Deep Gravel Mining Company, and the city of Placerville to the interests of Francis A. Bishop.

On March 13, 1922, El Dorado Water Company filed application for rehearing, alleging that the so-called Bishop contract is invalid and that the rate of 12 cents per miner's inch day of 24 hours, as provided therein, should be set aside and the company be permitted to immediately collect the rate of 24 cents per miner's inch day of twenty-four hours as established by the Commission for that portion of the service to the city of Placerville not covered by this contract.

On March 14, 1922, the Commission made its order granting rehearing and thereafter a public hearing was held thereon before Examiner Satterwhite at San Francisco, at which oral and documentary evidence was introduced by applicant, and after argument by counsel for both parties, the matter was submitted and is now ready for decision.

A careful consideration of the evidence submitted indicates that the so-called Bishop contract is discriminatory and is subject to regulation by this Commission. However, the fact that water has been delivered to the city of Placerville and its predecessors in interest, in accordance with the terms and conditions of this contract, for a period of forty-eight and one-half years, and that the contract expires in eighteen months, leads to the conclusion that a modification thereof is not advisable unless it is clearly shown that failure to make such modification will injuriously affect the interests of a large portion of the public. Such a showing has not been made and it is evident that this Commission's Decision No. 10166 should remain unchanged.

ORDER.

El Dorado Water Company having made application for rehearing in the above entitled proceeding, such rehearing having been granted, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that the interests of the public will be best served by the continued operation of that certain contract, dated September 26, 1873, between El Dorado Water and Deep Gravel Mining Company and Francis A. Bishop, until its expiration on September 26, 1923.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that El Dorado Water Company be and the same is hereby authorized and directed to charge for water

delivered to the City of Placerville in accordance with the terms and conditions contained in this Commission's Decision No. 10166, dated March 7, 1922.

Dated at San Francisco, California, this twelfth day of April, 1922.

DECISION No. 10312.

IN THE MATTER OF THE APPLICATION OF C. N. CLARK AND E. J. RAMSEY FOR THE APPROVAL OF A CERTAIN AGREEMENT FOR THE TRANSFER OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AN AUTOMOBILE STAGE LINE AS A COMMON CARRIER OF FREIGHT AND EXPRESS BETWEEN FRESNO, ROLINDA, KERMAN, TRANQUILLITY AND SAN JOAQUIN, CALIFORNIA, AND INTERMEDIATE POINTS.

Application No. 7619.

Decided April 14, 1922.

TRANSFER—OPERATIVE RIGHT—FINANCIAL ABILITY.—The Commission announces that in view of the fact that a certificate of public convenience and necessity is granted by the people of the state without cost, it will grant no application for the transfer of an operative right where it appears that the payment of a substantial sum for the right will so weaken the proposed purchaser's financial ability and resources that he will be unable to render adequate service.

Encell and Miller, by *James A. Miller*, for Applicant.

By THE COMMISSION.

OPINION.

In this proceeding C. N. Clark has filed a joint application with E. J. Ramsey in which they petition the Railroad Commission for an order authorizing applicant Clark to sell, and applicant Ramsey to purchase, the operative right authorizing the operation of an automobile truck line as a common carrier of freight and express between Fresno, Rolinda, Kerman, Tranquillity and San Joaquin, and intermediate points.

The operative right herein proposed to be transferred was obtained by C. N. Clark, under Decision No. 7647, dated May 27, 1920.

A hearing in the above entitled matter was held before Examiner Satterwhite on March 10, 1922, at San Francisco, at which time the matter was submitted and it is now ready for decision.

The agreement entered into between the applicants herein provides for the transfer of the operative right only for a consideration of \$1,500; no equipment or other property is proposed to be transferred. Applicant Clark testified that this service was inaugurated by him in June, 1920, under a certificate heretofore issued by the Commission as above mentioned and that he has used in such service one 2½-ton Moreland truck, one trailer and one 2½-ton Nash truck; that his net receipts for the year 1921 were \$1,300 including depreciation.

Applicant Ramsey, the proposed purchaser, testified that he is at the present time the owner of a 3½-ton Stewart truck upon which he has made one payment of \$1,250 under a conditional sale agreement by which he is obligated to make twelve additional payments of \$200 each. The sum of \$1,500 to be paid for the operative right under this agreement is to be paid in full upon the approval by the Commission of the proposed transfer. The proposed purchaser testified that while he has checked over the receipts as shown by the books for a number of months while Clark operated this line, he was not acquainted with the rates charged by Clark as shown by tariffs on file with this Commission, nor had he investigated in any manner the operating expenses incurred by Clark in his operation of this line. He was of the opinion, however, that from his knowledge of the receipts and a review of his probable operating expenses, he would be able through the operation of this line to not only earn sufficient to meet payments due upon the truck which he has purchased, but also to pay off with interest the sum of \$1,500 which he has had to borrow for the purpose of purchasing the operating right proposed to be transferred.

Evidence submitted in this proceeding shows that one truck is not sufficient to adequately meet traffic demands between the points covered by the operative right proposed to be transferred, particularly during the summer months and that beginning with June of each year, it is necessary that two trucks be operated to properly care for the business.

The proposed purchaser, E. J. Ramsey, testified that he had no funds of his own, but that his father had agreed to advance the \$1,500 which he proposed to pay for the operative right and also such further sums as may be required by him with the understanding that the earnings from his operation would provide sufficient funds to repay such loan with interest.

In view of the testimony of applicant Clark, that his net earnings amounted to the sum of \$1,300 for the year 1921, it would appear that this amount in no way would meet payments required to be met upon the single truck purchased by Ramsey. Applicant Clark later, with reference to his net earnings, qualified his testimony with a statement that his operating expenses included not only actual operating expenses, wages, and depreciation, but also payments which he made upon a truck purchased after his original truck was destroyed by fire. Such payments on a truck can not in any manner be considered as an operating expense, but are chargeable solely to capital account and it would appear that if earnings upon this line are sufficient to cover operating expenses, depreciation and also provide sufficient funds to make payments due upon equipment together

with a reasonable return upon the investment, they are unduly high. The proposed purchaser not only expects to pay out of the rates collected, his operating expenses, depreciation and insurance, but to make payments due upon the equipment which he has purchased and also in addition thereto to pay off, with interest, the sum of \$1,500 which he proposes to pay for the operative right authorizing the operation of this line.

From the statement of operating revenues and expenses covering this route for the year 1921, we can not see how the above obligations are to be met, nor how the shipping public in this territory shall receive adequate service through the transfer of this operative right to the proposed purchaser who has at the present time not even in his own possession one motor truck fully paid for. The evidence showed, during the summer months, that the operation of two trucks is necessary to properly care for this service. Furthermore, though the operating income may be sufficient to meet operating expenses and payments due upon the truck already contracted for by the proposed purchaser, it is unjust and unreasonable that shippers using this service should also be obliged to pay rates which would provide sufficient funds not only for reasonable operating expenses and a return upon actual investment, but rates which would provide funds for the purchase of equipment and also for the purchase of an operative right sold for the sum of \$1,500, which operative right was originally granted by the people of the State of California without charge.

In view of the fact that a certificate of public convenience and necessity is granted by the people of the State of California without cost, this Commission shall grant no application for the transfer of an operative right in any proceeding where it appears that the payment of a substantial sum for the operative right by the proposed purchaser will so weaken his financial ability and resources that he will be unable thereafter to render an adequate service to the traveling or shipping public over the route covered by the operative right which he proposed to purchase. Furthermore, the written promise of a third party not directly interested in the public utility in question to aid financially, if necessary, the proposed purchaser in the operation of the automobile stage line which he proposes to purchase can not in itself be considered adequate grounds for authorizing a transfer in the face of circumstances as herein above mentioned.

In view of the evidence in this proceeding, we are of the opinion that this application should be denied.

ORDER.

Hearing having been held in the above entitled proceeding, evidence submitted and the Commission being fully advised;

It is hereby ordered, that the above entitled application be and the same hereby is denied.

Dated at San Francisco, California, this fourteenth day of April, 1922.

DECISION No. 10313.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR AN ORDER OF THE COMMISSION, AUTHORIZING APPLICANT TO ENTER INTO AN AGREEMENT WITH SAN DIEGO AND ARIZONA RAILWAY COMPANY FOR THE USE OF LOCOMOTIVE AND SHOP FACILITIES OF SOUTHERN PACIFIC COMPANY AT CALEXICO, AND FOR THE USE IN COMMON OF ITS MAIN LINE BETWEEN ENGINEER'S STATION NO. 1635 AT EL CENTRO, IMPERIAL COUNTY, CALIFORNIA, AND ENGINEER'S STATION NO. 2155, AT CALEXICO, IN SAID COUNTY AND STATE.

Application No. 7656.

Decided April 14, 1922.

BY THE COMMISSION.

OPINION.

In this proceeding Southern Pacific Company, a corporation, has petitioned the Railroad Commission for an order authorizing the execution of a proposed agreement between applicant company and San Diego and Arizona Railway Company, such agreement covering the use of the locomotive and shop facilities of applicant company by San Diego and Arizona Railway Company and the joint use of applicant's main line between Engineer's Station No. 1635 at El Centro and Engineer's Station No. 2155 at Calexico, both stations being located in Imperial County.

The proposed agreement, copy of which is attached to and made a part of the application in this proceeding, is intended to supersede upon its effective date an agreement entered into under date December 1, 1919, by and between Director General of Railroads, Southern Pacific Railroad, San Diego and Arizona Railway Company, Southern Pacific Railroad Company and Southern Pacific Company, such agreement covering the use of the facilities as proposed in the present agreement for which authorization for execution is herein applied for.

After an inspection of the proposed agreement, which is to continue for a term of ten years following the date of its execution, unless previously terminated by either party upon nine months written notice to the other, we are of the opinion that there is nothing contained therein against public policy, that the matter is one in which a public hearing is not necessary and that approval should be given to applicant herein authorizing its execution.

ORDER.

Southern Pacific Company, a corporation, having petitioned the Railroad Commission for an order authorizing the execution of a certain agreement with San Diego and Arizona Railway Company, said proposed agreement covering the use of locomotive and shop facilities of applicant company at Calexico and the joint use of main line tracks between Engineer's Station No. 1635 at El Centro and Engineer's Station No. 2155 at Calexico, both stations in the county of Imperial, the Commission being fully advised and of the opinion that this is a matter in which a public hearing is not necessary and that the application should be granted;

It is hereby ordered, that this application be and the same hereby is granted subject to the following condition:

Applicant, Southern Pacific Company, will be required to file with the Railroad Commission a certified copy of the agreement herein authorized to be executed, when such agreement will have been executed by applicant herein and San Diego and Arizona Railway Company.

Dated at San Francisco, California, this fourteenth day of April, 1922.

DECISION No. 10320.

IN THE MATTER OF THE APPLICATION OF THE MOTOR TRANSIT COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PERMITTING IT TO MAKE CERTAIN EXTENSIONS OF ITS EXISTING AUTOMOBILE STAGE LINE SERVICE.

Application No. 6466.

IN THE MATTER OF THE APPLICATION OF J. C. BEST FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE PASSENGER AUTO STAGE SERVICE BETWEEN COLTON AND SAN BERNARDINO ON ONE HAND AND POINTS ARLINGTON TO SANTA ANA ON THE OTHER.

Application No. 6507.**Decided April 14, 1922.**

CERTIFICATE—SHOWING NECESSITY FOR.—A showing of public necessity can not be predicated upon an applicant's belief of what business he may develop in the way of additional traffic.

CERTIFICATE—ADDITIONAL SERVICE—EXISTING FACILITIES.—In applications for certificates of public convenience and necessity, particularly where an additional service is proposed which will virtually parallel existing carriers, a clear and affirmative showing must be made that the existing transportation facilities are inadequate or unsatisfactory.

CERTIFICATE—PUBLIC NECESSITY.—The Commission states that public necessity is determined upon the demand and needs of the public at large and not on the advantage that may come to a particular shipper or consignee.

H. W. Kidd and F. D. Howell, for Applicant, Motor Transit Company.
Adair and Winder, for J. C. Best.

Frank Karr, by *O. A. Smith, J. D. Taggard* and *R. C. Gortner*, for Pacific Electric Railway Company.

T. A. Woods, for American Railway Express Company.

William Guthrie, for City of San Bernardino and San Bernardino Chamber of Commerce.

Charles L. Allison, for San Bernardino Chamber of Commerce.

Lester G. King, for San Bernardino Chamber of Commerce.

H. W. Phipps, for Merchants Association of San Bernardino.

Sam P. Coy, for Colton Chamber of Commerce.

A. E. Isham, for Redlands Chamber of Commerce.

Paul Burks and *W. R. Dowler*, for The Atchison, Topeka and Santa Fe Railway Company.

W. H. Powell, for the G. and W. Stage Company.

F. K. Beyerle, for the Marietta Stage Company.

BY THE COMMISSION.

OPINION.

Motor Transit Company, a corporation, has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by it of an automobile passenger and freight service as a common carrier of passengers, freight and express between Riverside and San Bernardino, via Colton and intermediate points, and between Riverside and Redlands, via Loma Linda and intermediate points, together with the authority to link up and combine said proposed operations for a through passenger and freight service with applicant's existing lines between Riverside and all points on the "One Hundred and One Mile Drive" in the San Bernardino mountains, as well as for a through passenger service between Los Angeles and Redlands via Riverside and also via San Bernardino.

Applicant proposes to charge rates and to operate on time schedules in accordance with Exhibits "B" and "C" and "D" attached to said application, and Exhibit "K" filed at the hearing. Applicant proposes to use all necessary White trucks of a similar kind to those now used in other operations upon its system.

Applicant proposes to blanket rates from Riverside, San Bernardino and Redlands to mountain points. At present San Bernardino and Redlands are both on a direct route to and from San Bernardino mountain resorts. Riverside is south of San Bernardino, approximately twelve miles farther distant from any of the mountain points, and there is no traffic condition justifying its inclusion with the other points named. Blanket rates made co-extensive with areas of production or to marketing centers are usually a great public convenience, but such blanket rates must be applied without discrimination or injury to any point or locality. The evidence did not show that the blanketing of Riverside with San Bernardino and Redlands would develop any new business or result in reduced prices to consumers, but would only serve to increase the amount of business done by Riverside merchants in the mountain territory. There was no evidence as to why the applicant intended blanketing Riverside

with San Bernardino and Redlands, except that it would give Riverside the same advantage in so far as freight charges and passenger fares are concerned, as the other two points of the triangle.

The Motor Transit Company has, since the hearing, by authority of this Commission, acquired and now exercises all of the franchises and operative rights of the Mountain Auto Line, which transports passengers, freight and express from San Bernardino and Redlands to all points over the "One Hundred and One Mile Drive" in the San Bernardino mountains.

Applicant now operates out of Los Angeles lines of automobile passenger stages to Riverside, via Pomona and Ontario, and also to San Bernardino and Redlands, and this proposed service would establish triangular operations between Riverside, Redlands and San Bernardino, as well as a through service from Los Angeles to Riverside, thence through to Redlands and coming back via San Bernardino to Los Angeles and vice versa.

J. C. Best has petitioned the Railroad Commission, in accordance with his application amended at the hearing, for an order declaring that public convenience and necessity require the operation by him of an automobile passenger line as a common carrier of through passengers only between San Bernardino and Colton on the one hand, and Santa Ana to Corona, inclusive, on the other hand, via Riverside.

Applicant proposes to charge rates in accordance with Exhibit "A" attached to said application and to operate on an amended time schedule in accordance with Exhibit "F" filed at the hearing, using as equipment 18-passenger Reo busses now in operation in his present service.

Public hearings were held at Riverside and San Bernardino before Examiner Satterwhite on both applications which were consolidated for the purpose of receiving evidence; the matters were finally submitted and are now ready for decision.

Each of said applicants protested the granting of the application of the other.

The Pacific Electric Railway Company, The Atchison, Topeka and Santa Fe Railway Company and Murietta Stage Company also protested the granting of both applications.

The city of San Bernardino, Merchants Association of San Bernardino, and the Chambers of Commerce of San Bernardino, Redlands, Highland, Chino and Colton, appeared as one group in opposition to the granting of the application of the Motor Transit Company.

Motor Transit Company proposes to put into effect a through freight, express and passenger service from Riverside, via Colton, to San Bernardino and thence over its Mountain Auto Line to the various points and resorts on the "One Hundred and One Mile Drive" in the San Bernardino mountains, and likewise proposes to put into effect similar through passenger and freight service from Riverside to Redlands and thence into the said mountains.

The "One Hundred and One Mile Drive" is a well known mountain highway by which is reached all of the resorts in and near Big Bear Valley on its east end, and Little Bear Valley, Pine Crest, Squirrel Inn, Skylands and other resorts on its west end.

The testimony of the Motor Transit Company shows that there are twenty-five resorts and fifteen stores in Big Bear Valley, as well as other stores at Little Bear Valley, Strawberry Flats, Pine Crest and other points. San Bernardino and Redlands are at present, and have been for a great many years, the two principal outfitting points for all the resorts in the San Bernardino mountains, and have been the termini of the Mountain Auto Line since 1911. On account of the geographical location of San Bernardino and Redlands to the San Bernardino mountains they have been the chief centers of outfitting and supplies for all points in these mountains.

The testimony shows, however, that wholesale merchants in Los Angeles, fifty miles west, and merchants in Riverside, twelve miles south from San Bernardino, have always enjoyed a profitable share of the business from these mountain resorts.

The Motor Transit Company called five or six wholesale merchants of Riverside in support of its proposed service. These merchants, who respectively deal in groceries, meats, butter, eggs, dairy products and other staple food products, do a large and lucrative business in all the valley and mountain towns to the east, southeast and southwest of Riverside, and maintain a free fast and efficient truck service in the delivery of their goods to maximum points of thirty miles distant. They favor applicant's proposed service on the sole basis that the proposed free haul to San Bernardino will save them the cost of that delivery and put them on a parity with San Bernardino and Redlands merchants and thereby afford them an improved opportunity to enlarge the San Bernardino mountain patronage they now enjoy.

Several of these Riverside dealers frankly admitted at the hearing that they had no interest in the proposed service unless the parity of rates was authorized.

Dad Skinner, a witness for this applicant, conducts the Pine Knot Lodge and a store at Big Bear Valley. He and some other resort owners desire this service on the ground that if these Riverside dealers are placed on an equal rate basis with San Bernardino merchants, the opportunity will be given to resort owners to precipitate between these dealers a competitive contest; and the following excerpt from the testimony of Mr. Skinner clearly indicates their interest and purpose:

"For instance, Cudahy (San Bernardino meat dealer) offered me a discount on thirty ribs and loins and I got Mr. Oehls (San Bernardino meat dealer) on the 'phone and I read the letter to him and he said, 'That is a good price, but I will meet it.' He shipped thirty ribs and loins and I called the Cudahy people up and told them that I would accept their price and they shipped it, which amounted to a hundred and twenty some dollars saving. So, if I have Wilson (Riverside meat dealer) in the same place I will have a nice three-cornered fight."

There is no testimony in the record that these Riverside merchants or resort owners intend to reduce their prices or charges to the general public, but, on the contrary, there is direct evidence that no reduction of prices will be made.

The Chamber of Commerce of Riverside, by resolution, declined to endorse the proposed passenger service of this applicant, but favors the proposed freight service on the sole, limited and particular basis that the merchants of Riverside will be enabled to increase their business with resorts in the San Bernardino mountains.

This Commission has clearly heretofore established the doctrine that certificates to operate an auto stage or freight service shall be granted or withheld upon the basis of whether the rights, welfare and interest of the general public will be advanced by the prosecution of the enterprise, and not upon the private benefit or advantage that may accrue to any carrier, shipper or consignee.

In support of the proposed passenger service of this applicant, testimony was introduced to the effect that there have been about an average of four inquiries daily at Redlands and about a dozen inquiries at Riverside for auto stage service between these two communities, but there was little or no evidence of any desire or demand for stage service between Riverside and San Bernardino.

It appears that there are about seventy-five families at Riverside who spend their vacations in the San Bernardino mountains and that a portion of these would avail themselves of this stage service, but it was shown by the testimony of protestants that the great majority of these families use their own private automobiles and

either carry their own supplies with them or buy them from the stores at the various mountain resorts. The record shows that the Mission Inn Hotel at Riverside from time to time, at its own expense, transports overland tourists by private automobile or taxicab to the Mountain Auto Line at San Bernardino, for the reason that this class of travelers can not be subjected to any inconvenience of waiting for the Pacific Electric service, and that applicant's proposed through service would meet the demands of this particular class. This Commission has never recognized any class distinctions in the regulation of public service.

Loma Linda is an intermediate point between Riverside and Redlands. It is in reality a sanitarium and not a settlement, and its patients, nurses and employes aggregate about 700 or 800 persons. It operates a small factory for the production of health foods, especially for the institution, and conducts both at San Bernardino and Redlands small stores for the sale of their health products. Some sales are made at Riverside, where no store is conducted, and the Riverside merchants who handle these health foods often transport them in their own delivery trucks. Most of the supplies for the institution are obtained in wholesale quantities at Los Angeles by a purchasing agent. The record shows that the volume of passenger traffic between this institution and Riverside is small; that there are three medical students and one stenographer who attend daily from Riverside, together with a few or limited number of visitors who either use their private machines or the service of the Motor Transit Company and the Pacific Electric Railway through San Bernardino.

Some evidence was offered by the Motor Transit Company to the effect that there are about 160 employes of the California Portland Cement plant, just south of Colton, who live in Colton and San Bernardino and would avail themselves of this proposed auto stage service. W. C. Hanna, chief chemical engineer for this plant, having direct knowledge of the facts, testifying for the Pacific Electric Company, showed, however, that, out of the 450 employes of this plant, 410 live right near and only 40 away from the plant, and that two-thirds of all the employes are Mexicans. Many of those living away from the plant own their own automobiles or use bicycles, and the others are entirely satisfied with the Pacific Electric service. Applicant offered little or no evidence concerning the need of this service at any other intermediate point, but indicated its hope and expectation that if the service is authorized, a roadside business could be developed.

The Pacific Electric Railway Company offered in evidence its time schedules and rates and fares in effect on its line between Riverside,

San Bernardino and Redlands and all intermediate points. The evidence shows that this rail carrier operates twenty-six fast electric trains daily in each direction between these three cities, and maintains practically an hourly service between the hours of five in the morning and twelve o'clock midnight. The seating capacity of their cars ranges from sixty to twenty passengers.

Four exhibits were offered in evidence by this protestant, showing an on and off check of actual travel for one day shortly before the hearing, between these three cities, which clearly shows that the volume of passenger traffic is far below the seating capacity of its cars, and that its cars are seldom fully loaded.

A check made by this carrier of tickets sold by agents at Riverside and Redlands shows that the combined or total sales of tickets between these two points for January, February and March in 1921, was, for one way, only 408, and for round trips only 394, which makes an average of about 10 single trips per day both ways.

This carrier, with reference to Loma Linda passenger service, makes also direct connections at Colton with the Southern Pacific Company, which has two trains in each direction that stop at Loma Linda.

O. A. Smith, general passenger agent of the Pacific Electric Company, testified to the effect that this protestant renders an adequate and satisfactory service in every respect and is able and willing to furnish all necessary equipment and maintain time schedules suitable to its patrons and the general public. The record shows that this rail carrier has always adequately and efficiently met all peak demands of large passenger movements to such events as the San Bernardino Orange Show and other annual festivals and holidays.

The group of protestants in San Bernardino county called a large number of wholesale and retail merchants, business men and county officials, residing respectively at San Bernardino, Redlands and Colton, in protest against these applications. Their testimony shows almost a unanimous sentiment against the granting of the application of the Motor Transit Company.

It appears that for many years at San Bernardino various wholesale dealers and retail merchants have maintained and conducted large establishments for the sale of all staple foodstuffs and all supplies, goods and materials of every kind and character, and for years and past seasons have met every demand of all classes visiting and sojourning and doing business in the San Bernardino mountains. Nevertheless, they have had to meet the active competition of numerous dealers in other cities of Southern California, particularly jobbers at Los Angeles and Riverside, who have used either the facilities respectively of the Pacific Electric Company and other rail

carriers, or their own auto truck deliveries, and after absorbing transportation costs have enjoyed their own profitable share of business in the San Bernardino mountains.

In this connection the record shows that the Pacific Electric Railway has adequately and satisfactorily transported from Los Angeles and other points all freight, both perishable and otherwise, consigned to it and destined to the mountain trade.

Practically every witness from the communities of the protestant group testified that the service of the Pacific Electric Railway Company is adequate and satisfactory, and that no need or demand exists for the proposed Motor Transit line. With reference to the desire of the applicant, Motor Transit Company, to place Riverside in the same geographical zone as San Bernardino and Redlands, testimony was offered by the protestant group of San Bernardino county to show that at no time did Riverside ever join or offer to join in the expenditure of tens of thousands of dollars specially raised by bond election and appropriation out of the treasury of San Bernardino County for the construction and maintenance respectively of the San Bernardino mountain highways and their approaches. The testimony of Rex B. Goodeell, judge of San Bernardino County and president of the San Bernardino Chamber of Commerce, is a clear and concise summary of the absence of any necessity for this proposed stage and truck service. He had interviewed half the merchants in San Bernardino, as well as a hundred business men, and they all had endorsed the adequacy of the existing rail facilities and were unalterably opposed to the proposal of the Motor Transit Company, as being unfair, unjust and unnecessary, of artificially including Riverside in the same geographical district as San Bernardino and Redlands.

Dr. J. N. Baylis, who conducts the largest resort on the western end of the "Rim of the World Drive," near Little Bear Lake, has purchased for fourteen years all his supplies from San Bernardino merchants, and testified that his every demand had been met and that there was no necessity for this proposed service.

We have given careful consideration to all the evidence in this proceeding, and are of the opinion and find as a fact that the Motor Transit Company has presented no evidence to justify the authorization of its proposed additional passenger and freight service. By its admissions in the record, this applicant concedes that the present demands are so limited that at the outset neither the freight nor the passenger service alone will be profitable and not even self-supporting, but believes that in the future a profitable business may be built

up if both are combined. It does not desire the authority to operate one service without the other.

A showing of public necessity can not be predicated upon an applicant's belief of what business he may develop in the way of additional traffic between two or more given points. The record shows that the traffic expected to be secured had little or no existence at the time of filing the application, and if present transportation facilities are adequate there is no public necessity for the establishment of additional service designed to care for business which may or may not materialize in the future.

Moreover, this Commission has repeatedly held on applications for certificates of public necessity and convenience, particularly where an additional service is proposed which will virtually parallel existing carriers, that a clear and affirmative showing must be made that the existing transportation facilities are inadequate or unsatisfactory. There is no evidence in this case that the existing transportation facilities are in any way inadequate, even though it may appear that the convenience of a limited few may be served at one or two intermediate points.

We have already indicated herein that the public necessity is determined by this Commission upon the demand and needs of the public at large and not on the advantage that may come to a particular shipper or consignee. We are, therefore, clearly of the opinion that the application of Motor Transit Company should be denied.

J. C. Best operates an automobile passenger stage line between Santa Ana and Riverside, by way of the Santa Ana canyon, serving Olive, Orange, Corona and other intermediate points, and the granting of his application would permit an extension of his operations to Colton and San Bernardino.

This applicant called his son, R. C. Best, a driver on the line, and two others as witnesses in support of the application.

The evidence shows that this proposed service is based wholly upon the plan and desire of the applicant to obviate some inconvenience and a short lay-over at Riverside by passengers transferring to and from the Pacific Electric railway.

Applicant testified to the effect that there has been a daily average of about four or five requests at Santa Ana for transportation to San Bernardino, but there is nothing at all in the record to indicate whether there have been any inquiries or requests at San Bernardino or Colton for stage service to Santa Ana. The two witnesses for applicant, who reside at Santa Ana and make but occasional visits to Colton or San Bernardino, complained only of the inconvenience of a ten or fifteen-minute lay-over at Riverside.

It appears that during three months in the summer time only, some San Bernardino people visit the beaches and some Santa Ana people go to the mountains, all of whom might avail themselves of this proposed stage service, but there is no evidence in the record to disclose the volume of this travel or that the Pacific Electric Railway, protestant, has ever failed in any way to meet the demands of this particular traffic.

Two petitions were offered in evidence by this applicant, signed by many citizens of Santa Ana and Colton, requesting in general terms the authorization of this proposed extension, but it appears that a very limited number of these signers ever visit San Bernardino or Colton and that most of them signed at the mere request of applicant, and none of them appeared at the hearing.

Petitions and similar documents favoring the granting of an application are not the best evidence, and as a rule have little or no evidentiary value, as the signers are usually not present for cross-examination, and while such documents are received by the Commission, they are accorded such weight as is merited by the facts and circumstances of the particular case under consideration.

A study and comparison of the time schedule of the Pacific Electric Railway, which makes hourly trips between San Bernardino and Riverside, with the schedule of this applicant, J. C. Best, which only makes two round trips daily and three on Saturdays and Sundays, between Riverside and Santa Ana, convinces us that it will be a very easy and simple matter for applicant to adjust his schedule to that of the Pacific Electric Railway and thereby eliminate any lay-over by making direct connections therewith.

This applicant, in seeking an extension of his service, which parallels the Pacific Electric Railway, has also offered no evidence whatever to show that this protestant's service is inadequate or that the public necessity requires such additional facilities, and we are of the opinion, therefore, that his application should be denied.

ORDER.

Public hearings having been held in the above entitled applications, which were consolidated for the purpose of receiving evidence, and both matters having been submitted and being now ready for decision;

It is hereby ordered, that the application of the Motor Transit Company be and the same is hereby denied.

It is hereby ordered, that the application of J. C. Best be and the same is hereby denied.

Dated at San Francisco, California, this fourteenth day of April, 1922.

DECISION No. 10325.

IN THE MATTER OF THE APPLICATION OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, FOR AN ORDER AUTHORIZING THE CONSTRUCTION AND MAINTENANCE OF A PUBLIC HIGHWAY AT GRADE ACROSS THE TRACKS AND RIGHT OF WAY OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, A CORPORATION, NEAR FIRST STREET, IN THE CITY OF MANHATTAN BEACH, CALIFORNIA.

Application No. 7442.

Decided April 17, 1922.

Frank L. Perry, for Applicant.

E. T. Lucy, for The Atchison, Topeka and Santa Fe Railway Company.

BY THE COMMISSION.

OPINION.

In this application the city of Manhattan Beach asks for permission to construct a public street at grade across the track of the Atchison, Topeka and Santa Fe Railway Company in the vicinity of First street, sometimes called Neptune street.

A public hearing in this matter was held before Examiner Williams on March 14, 1922. The general crossing situation in the city of Manhattan Beach was quite thoroughly described in Decision No. 2510, dated June 22, 1915, rendered in the matter of the application of the city of Manhattan Beach for authority to construct eleven crossings over the track of the Atchison, Topeka and Santa Fe Railway Company in Manhattan Beach.

As a result of that proceeding a rather comprehensive plan of grade separation was proposed and permission was granted to construct three streets beneath the railroad, two streets above the railroad and one street at grade across the railroad. Subsequently, the city of Manhattan Beach made application to have Decision No. 2510 modified, in so far as it related to construction of Rosencrans avenue at the northerly limits of the city, to permit the construction of a grade crossing at that location and, in Decision No. 9293, dated July 30, 1921, permission to construct Rosencrans avenue at grade across the Atchison, Topeka and Santa Fe Railway Company's track was granted.

It is quite evident from the testimony in the present proceeding that the purpose of installing a crossing in the vicinity of First street is to give suitable access to the same territory as would be served by the construction of Second street beneath the railroad, as provided in Decision No. 2510. From the evidence it appears that public convenience and necessity require some sort of a crossing in this general vicinity, and the matter to be determined is a question of whether conditions at this time justify the expenditure of the necessary money

to construct a subway at Second street or whether that action should be postponed and in lieu thereof a grade crossing established at a convenient location nearby.

In view of the fact that the traffic on the railroad at this location consists only of one train each way daily except Sunday and that the public traffic on a street crossing in this vicinity for the immediate future would not exceed twenty vehicles per day, there appears to be no other conclusion than that the cost incident to a separation of grades at Second street would not be justified at this time, and that the proper policy to pursue would be to permit the construction of a temporary grade crossing in this vicinity to be replaced by the subway at Second street when traffic conditions justify.

There then remains only the question of determining the particular point and manner of crossing and the protection to be provided. In the application the city requested that the crossing be made approximately 300 feet southerly from First street, it being impracticable to construct a crossing on the line of First street itself due to the excessive grade of approach that would be required at that location. It was suggested at the hearing that a location approximately 100 feet northerly of First street would be more nearly in line with the real objective of the crossing and that the hazard of accident would not be materially different in either location.

It appears that either location is reasonably satisfactory and since the city has expressed a preference for the northerly location, the crossing should be authorized in that location. That portion of the hill immediately west of the railroad in the vicinity of First street should be graded down to an elevation not greater than five feet above the railroad in order that a more unobstructed view of approaching trains may be had. With this provision it does not appear that any protection other than the installation of the standard crossing sign is required at this time.

There is a grade crossing in the vicinity of Sixth street which is used at infrequent intervals, and, although indicated as a private crossing, is open to the public. It apparently serves no important public convenience or necessity and representatives of both the city and the railroad agreed that it could properly be closed, and this should be done.

ORDER.

The city of Manhattan Beach having filed its application with the Commission for permission to construct a grade crossing over the track of the Atchison, Topeka and Santa Fe Railway Company near First street, a public hearing having been held, the Commission being apprised of the facts and the matter being under submission, it is hereby

ordered that permission be and it is hereby granted the city of Manhattan Beach to construct a temporary grade crossing over the track of the Atchison, Topeka and Santa Fe Railway Company at a location described as follows:

“A strip of land 24 feet wide lying 12 feet on either side of a line radial to the curve of the right of way of the Santa Fe Railroad and crossing the center line of said right of way at a point 95.55 feet northerly, along said center line, from its intersection with the production easterly of the center line of that portion of Neptune avenue lying westerly of said right of way, said 24 foot strip to extend from the westerly line to the easterly line of said right of way,”

said crossing to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing and maintaining the crossing shall be borne by the applicant.

(2) The crossing shall be constructed of a width not less than twenty-four (24) feet and at an angle of ninety (90) degrees to the railroad and with grade of approach not greater than four (4) per cent; shall be protected by a suitable crossing sign and shall in every way be made safe for the passage thereon of vehicles and other road traffic.

(3) Applicant shall grade down that portion of the hill lying southerly from the crossing and westerly of the track to an elevation not greater than five feet above the railroad.

(4) The grade crossing located in the vicinity of Sixth street in the city of Manhattan Beach, shall be effectively closed and abandoned to public use and travel.

(5) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing.

(6) The authorization herein granted for the installation of said crossing shall lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(7) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

Dated at San Francisco, California, this seventeenth day of April, 1922.

DECISION No. 10334.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUANCE OF PREFERRED CAPITAL STOCK OF THE PAR VALUE OF TWENTY-FIVE MILLION DOLLARS.

Application No. 7657.

Decided April 20, 1922.

SECURITIES—STOCK—PAYMENT OF DEBTS.—Applicant company authorized to issue and sell \$25,000,000 of 6 per cent cumulative preferred stock and to apply the proceeds to the payment of indebtedness.

STOCK—TREASURY REIMBURSEMENT.—It is held that under section 52 of the Public Utilities Act a utility can reimburse its treasury through the issue of stock, bonds or other evidence of indebtedness only to the extent that earnings or money not obtained from the issue of stock, bonds or other evidence of indebtedness have been expended for the purposes mentioned in said section.

Pillsbury, Madison and Sutro, by H. D. Pillsbury, for Applicant.

BENEDICT, Commissioner.

OPINION.

The Pacific Telephone and Telegraph Company asks permission to issue and sell at not less than \$85 per share 250,000 shares (\$25,000,000 par value) of 6 per cent cumulative preferred stock and use the proceeds to reimburse its treasury and pay indebtedness incurred for the purpose of acquiring properties.

The Pacific Telephone and Telegraph Company was organized on or about December 31, 1906. It has an authorized capital stock issue of \$50,000,000, divided into \$18,000,000 of common and \$32,000,000 of 6 per cent preferred. All of the stock is outstanding. At a stockholders' meeting held on April 19, 1922, the stockholders of The Pacific Telephone and Telegraph Company approved the proposition of increasing the capital stock of the corporation from \$50,000,000 to \$100,000,000 divided into 1,000,000 shares of the par value of \$100 each, of which 820,000 shares are preferred and 180,000 shares are common. The preferred stock is cumulative, and preferred, both as to dividends and assets.

Applicant reports \$38,646,000 of bonds outstanding. This bonded debt consists of \$32,030,000 of The Pacific Telephone and Telegraph Company first mortgage and collateral trust 5 per cent sinking fund gold bonds due January 2, 1937, and \$6,616,000 of Home Long Distance Telephone Company first mortgage 5 per cent sinking fund gold bonds due January 2, 1932. The company reports the following notes outstanding:

Notes payable to American Telephone and Telegraph Company-----	\$22,010,000 00
Notes payable to the Crocker National Bank of San Francisco-----	300,000 00
Notes payable to W. E. Eden and L. B. Eden-----	30,000 00
Total-----	\$22,340,000 00

Applicant further reports open account indebtedness of \$2,338,700.54 and liabilities accrued but not due in the sum of \$1,884,424.48.

Applicant owns and operates directly or through subsidiary corporations a general telephone system in the states of California, Nevada, Oregon, Washington and part of Idaho. The system is composed of local and long distance telephone lines and exchanges and the buildings, rights of way, franchises and equipment therefor. As of December 31, 1921, applicant reports its assets and liabilities as follows:

<i>Asset Accounts.</i>	
Total fixed capital	\$110,374,891 42
Less reserve for accrued depreciation	\$26,177,106 00
Less reserve for amortization of intangible capital	55,265 00
Total credit	26,232,371 00
Net investment in fixed capital	\$84,142,520 33
Construction work in progress	3,276,042 77
Investment securities	14,076,791 36
Advances to system corporations	8,669,245 88
Miscellaneous investments	179,060 58
Cash and deposits	824,669 52
Employee's working funds	230,054 20
Bills receivable	92,221 47
Due from subscribers and agents	1,930,417 85
Accounts receivable from system corporation	547,833 35
Miscellaneous accounts receivable	69,607 28
Matured interest and dividends receivable	36,923 92
Materials and supplies	2,135,318 22
Unmatured interest, dividends and rents receivable	90,946 92
Sinking fund assets	302,973 43
Prepayments	291,364 97
Unamortized debt discount and expense	1,384,836 61
Other suspense	6,435 38
Total assets	\$118,287,264 13
<i>Liability Accounts.</i>	
Capital stock	\$50,000,000 00
Funded debt	38,646,000 00
Advances from system corporations	22,010,000 00
Bills payable	330,000 00
Audited vouchers and wages unpaid	800,103 79
Subscribers' deposits	53,541 44
Accounts payable to system corporations	1,345,000 79
Miscellaneous accounts payable	69,890 81
Service billed in advance	49,994 71
Taxes accrued	1,149,525 92
Other accrued liabilities not due	734,898 56
Other deferred credit items	75,287 42
Liability on account of provident funds	500,000 00
Corporate surplus unappropriated	2,502,851 69
Total liabilities	\$118,287,264 13

In Exhibit "A" filed in this proceeding, applicant reports that its assets on December 31, 1921, were \$39,888,419.43 more than on January 1, 1914. Of this increase, \$19,165,235.67 is said to represent an

increase in fixed capital, \$2,512,149.50, an increase in construction work in progress, and \$18,211,034.26, an increase in investment securities, advances to system corporations and current assets. The record also shows that from January 1, 1914, to December 31, 1921, applicant reduced its bonded debt by the sum of \$3,018,000.

For 1921 and 1920, The Pacific Telephone and Telegraph Company has filed the following income account statements:

Item	1921	1920
A. INCOME ACCOUNT.		
I. Operating income:		
Operating revenue.....	\$33,161,587 34	\$29,966,751 60
Operating expenses.....	24,811,064 11	21,972,707 71
Net operating revenues.....	\$8,850,523 23	\$7,984,043 89
Less taxes assignable to operation.....	2,206,863 37	1,957,231 41
Less uncollectible operating revenues.....	111,800 00	120,000 00
Deductions from net operating revenues	\$2,318,668 37	\$2,077,231 41
Operating income.....	\$6,531,859 86	\$5,906,812 48
II. Nonoperating revenues:		
Rent.....	\$18,144 52	\$20,446 56
Dividend revenues.....	260,011 30	9,090 00
Interest revenues.....	666,940 36	449,960 41
Total nonoperating revenue.....	\$945,096 18	\$479,496 97
III. Nonoperating revenue deductions:		
Rent expenses.....	\$3,225 00	-----
Nonoperating taxes.....	2,412 12	-----
Uncollectible nonoperating revenues.....	2,750 00	\$3,000 00
Totals.....	\$8,387 12	\$3,000 00
Nonoperating income.....	\$936,709 06	\$476,496 97
Gross income.....	\$7,468,568 92	\$6,383,309 45
IV. Deductions from gross income:		
Rent.....	\$351,555 23	\$301,873 74
Interest on funded debt.....	1,940,872 88	1,968,074 09
Other interest deductions.....	868,408 64	525,134 94
Amortization of debt discount and expense	92,599 08	98,721 42
Amortization of landed capital.....	21,850 00	21,410 00
Miscellaneous deductions.....	29,581 56	27,245 50
Total deductions.....	\$3,304,867 39	\$2,987,459 69
Net income.....	\$4,163,701 53	\$3,445,849 76
Dividends paid.....	1,920,000 00	1,920,000 00
Carried to credit of surplus account....	\$2,243,701 53	\$1,525,849 76

The operating expenses for 1921 include an allowance of \$5,157,000 for depreciation of plant and equipment, and those for 1920 an allowance of \$4,698,325.

Applicant will offer the \$25,000,000 of new stock to its present stockholders, giving them the right to subscribe for one share of the new stock for each two shares of the present stock which they hold, whether preferred or common. It is anticipated that the American Telephone and Telegraph Company, which controls applicant corporation through stock ownership, will take its pro rate share of the new stock.

Applicant asks permission to use the proceeds obtained from the sale of its stock to reimburse its treasury to the extent that they are sufficient therefor, for amounts paid into the sinking funds of its two bond issues and for its uncapitalized expenditures for fixed capital and investment accounts prior to December 31, 1921. It occurs to me that under section 52 of the Public Utilities Act, a utility can reimburse its treasury through the issue of stock, bonds or other evidences of indebtedness only to the extent that earnings or moneys not obtained from the issue of stock, bonds or other evidences of indebtedness have been expended for the purposes mentioned in said section and in accordance with the provisions of said section. The showing made by applicant does not in my opinion justify the Commission in making an order authorizing the issue of all the stock for the purpose of reimbursing applicant's treasury. Moreover, it does not seem necessary to determine to what extent stock might be issued to reimburse applicant's treasury. While applicant called attention to the increase in its assets, the record shows that it has borrowed \$22,010,000 from the American Telephone and Telegraph Company, \$300,000 from the Crocker National Bank of San Francisco and has incurred other obligations to acquire such assets. I believe that the Commission should authorize the issue of the \$25,000,000 of stock for the purpose of paying indebtedness.

I herewith submit the following form of order:

ORDER.

The Pacific Telephone and Telegraph Company having applied to the Railroad Commission for permission to issue and sell 250,000 shares of its 6 per cent cumulative preferred stock, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant for the purpose or purposes specified in this order and that this application should be granted subject to the conditions of this order;

It is hereby ordered, that The Pacific Telephone and Telegraph Company be and it is hereby authorized to issue and sell, for cash, at not less than \$85 per share, 250,000 shares (\$25,000,000 par value) of 6

per cent cumulative preferred stock and apply the proceeds to the payment of indebtedness due the American Telephone and Telegraph Company, the Crocker National Bank of San Francisco and other obligations referred to in the opinion which precedes this order, and through the payment of such indebtedness finance in part the cost of acquiring property on or before December 31, 1921.

The authority herein granted is subject to further conditions as follows:

1. Within thirty days after the date hereof, applicant shall file with the Commission a certified copy of its amended articles of incorporation.

2. The Pacific Telephone and Telegraph Company shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

3. The authority herein granted will apply only to such stock as may be issued, sold and delivered on or before December 1, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twentieth day of April, 1922.

DECISION No. 10335.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SALT LAKE RAILROAD COMPANY FOR AUTHORITY TO CONSTRUCT, MAINTAIN AND OPERATE A LINE OF RAILROAD FROM A POINT ON THE SOUTH CITY LIMITS OF THE CITY OF FULLERTON, COUNTY OF ORANGE, STATE OF CALIFORNIA, TO, THROUGH AND TO A POINT ON THE SOUTH CITY LIMITS OF THE CITY OF ANAHEIM, SAID COUNTY AND STATE, CROSSING AT GRADE, CERTAIN LINES OF RAILWAY, PUBLIC ROADS, STREETS AND OTHER PUBLIC PLACES.

Application No. 7645.

Decided April 21, 1922.

Fred E. Pettit, Jr., for Applicant.
H. G. Amcs, for City of Anaheim.

MARTIN, *Commissioner*.

OPINION.

In this application, filed March 13, 1921, Los Angeles and Salt Lake Railroad Company asks authority to construct its Santa Ana branch at grade across twenty-two public highways and streets and three railroad tracks, three of which highway crossings are located

in Orange County, unincorporated, and eighteen in the city of Anaheim.

In Decisions Nos. 3921 and 4516, applicant has already been authorized to construct and maintain crossings on the Santa Ana Branch from Whittier Junction (near Pico) to and through Fullerton to the south city limits and the crossings herein are those on this branch line from the south city limits of Fullerton to and through Anaheim.

A public hearing was held April 13, 1922, at Anaheim. Although county of Orange had been served with notice to show cause why the application should not be granted the county did not appear.

At the hearing applicant filed as Exhibit "E" a certified copy of franchise from the city of Anaheim dated March 23, 1922. Applicant also stated that it was its belief that the city had been extended since the granting of the franchise to La Palma avenue and that were such the case an amendment to the franchise would be required and would be filed when granted.

Applicant also amended its petition to the extent that Orange-thorpe avenue be added to those streets where it intended to install automatic flagmen. These other streets are East Sycamore street, East Center street, East Broadway and East South street in the city of Anaheim.

Agreement with the Atchison, Topeka and Santa Fe Railway Company covering the crossing of its spur track at engineer station 894 plus 30.3 was filed. Applicant filed unexecuted forms of agreement for the other railroad crossings and stated that agreements would be filed, if executed in different form. It is thought that this is not enough and that copies of these agreements should be filed after execution and it will be so recommended.

It seems unnecessary to discuss each of the crossings. The terrain over which this line is projected is practically flat and because of the limited traffic expected at this time—one freight train daily each way—it does not appear reasonable nor practicable to separate the grades at the crossings involved herein.

There was no protest against the granting of the application. The Commission's transportation engineer stated he had inspected all of the crossings prior to the filing of the application and that the protection offered by applicant, and as also provided in the franchise of the city of Anaheim, was the same as that recommended by him.

I have also inspected the crossings and see no reason why the application should not be granted subject to certain conditions.

The following form of order is submitted:

ORDER.

Los Angeles and Salt Lake Railroad having applied to the Commission for authority to construct its railroad at grade over certain highways and streets and tracks of other railroads, in the county of Orange, unincorporated, and in the city of Anaheim, as shown in the application and as hereinafter specifically mentioned, the city of Anaheim having granted applicant the necessary franchise, a public hearing having been held, the matter having been submitted and ready for decision and it appearing that the application should be granted subject to the conditions hereinafter specified;

It is hereby ordered, that Los Angeles and Salt Lake Railroad Company be and is hereby granted permission to construct its track at grade across the following public highways and streets at the location shown on the map attached to the application: Orangethorpe avenue and La Palma avenue in the county of Orange. East North street, East Wilhelmina street, East Sycamore street, alley between East Sycamore street and East Adele street, East Adele street, alley between East Adele street and East Cypress street, East Cypress street, East Chartres street, East Center street, northerly alley between East Center street and East Broadway, southerly alley between East Center street and East Broadway, East Broadway, northerly alley between East Broadway and East Santa Ana street, southerly alley between East Broadway and East Santa Ana street, East Santa Ana street, northerly alley between East Santa Ana street and East Water street, southerly alley between East Santa Ana street and East Water street, East Water street, East South street and South Olive street, all in the city of Anaheim subject to the following conditions and not otherwise:

(1) The entire expense of constructing the crossings, together with the cost of their maintenance thereafter in good and first class condition for the safe and convenient use of the public shall be borne by applicant.

(2) Said crossings shall be constructed of a width and type of construction to conform to those portions of said public streets and highways now graded, with grades of approach not exceeding four (4) per cent; shall be protected by suitable crossing signs and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(3) Automatic flagmen shall be installed and maintained at expense of applicant at the crossings of Orangethorpe avenue, East Sycamore street, East Center street, East Broadway and East South street, said automatic flagmen to be of a type and installed in accordance with plans or data approved by the Commission.

It is hereby further ordered, that applicant be and is hereby granted permission to construct its track at grade across the following tracks at the location shown on the map attached to the application:

(a) A spur track of The Atchison, Topeka and Santa Fe Railway Company at engineer station 894 plus 30.3.

(b) Two transfer tracks in part owned by The Atchison, Topeka and Santa Fe Railway Company and in part by Southern Pacific Company and jointly operated, at engineers stations 964 plus 16.5 and 964 plus 44.9.

(c) A spur track of Southern Pacific Company located along center line of East Santa Ana street in the city of Anaheim, subject to the following conditions:

(4) The entire expense of constructing the crossings together with the cost of their maintenance thereafter in good and first class condition for the safe and convenient use of the public shall be borne by applicant.

(5) Operation over the crossing (a) above shall be in accordance with the agreement filed as Exhibit "F" herein.

(6) At crossings (b) and (c) the engines, trains, motors and cars of applicant shall proceed over the crossing under full control and the engines, trains, motors and cars of The Atchison, Topeka and Santa Fe Railway Company and of Southern Pacific Company shall come to a full stop before passing over same.

(7) Applicant shall, within sixty (60) days from the date of this order, file with the Commission agreement with said The Atchison, Topeka and Santa Fe Railway Company and Southern Pacific Company covering the installation and operation of and at crossings (b) and (c).

It is hereby further ordered, that the authority herein granted is further subject to the following conditions:

(8) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossings.

(9) The authorization herein granted for the installation of said crossings shall lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(10) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

Dated at San Francisco, California, this twenty-first day of April, 1922.

34—17236

DECISION No. 10338.

HARRY N. BLAIR

vs.

COAST TRUCK LINE, INCORPORATED.

Case No. 1640.

Decided April 21, 1922.

MOTOR TRUCK TRANSPORTATION—OPERATIVE RIGHTS—EXPANSION OF.—The Commission announces that it can not tolerate an attempt to expand operative rights by indirection and by tariff filings.

OPERATIVE RIGHTS—LINKING OF—CERTIFICATE REQUIRED.—The linking of operative rights to form a through route is declared to require a showing of public convenience and necessity for the through service proposed to be established.

Harry N. Blair, in propria persona, Complainant.

H. J. Bischoff and H. W. Kidd, for Defendant.

Warren E. Libby, for Chas. D. Boynton, proprietor, Boulevard Express, Intervener.

BY THE COMMISSION.

OPINION.

Harry N. Blair, complainant herein, alleges that defendant, Coast Truck Line, a corporation, has violated the provisions of the Railroad Commission's Decision No. 8715 on Applications Nos. 6094 and 6095 as decided March 8, 1921, in that said defendant has expanded its operative rights beyond those heretofore vested in Roy Jakeway under the provisions of this Commission's Decision No. 7787 on Application No. 5807 as decided June 24, 1920, and R. Roy Whetstone, as conferred by the Railroad Commission's Decision No. 6898 on Application No. 4999 as decided November 29, 1919, in that such defendant corporation has violated the provisions of the order based on a portion of the opinion preceding same in Decision No. 8715 on Applications Nos. 6094 and 6095, such portion of the order reading as follows:

No authority is hereby conveyed for the expansion of any operative rights beyond those heretofore held by applicants, Whetstone and Jakeway, under the authority contained in decisions of this Commission hereinbefore specifically mentioned.

The portion of the opinion above referred to being as follows:

The objections of protestants will be fully met by the order in this proceeding in that such order will not authorize in the approval of transfer the expansion of any operative rights over those now possessed by applicants, Jakeway and Whetstone.

Complainant alleges that defendant corporation has by the issue of a local and through tariff published as "Coast Truck Line C.R.C. No. 1," named rates covering the transportation of freight locally between points on the route formerly owned by Whetstone and jointly between the two routes and by such joint rates over the through route has established a through rate by alleged tariff authority and thereby has established a condition unauthorized by order

of the Commission and in direct violation of the order of the Railroad Commission as contained in Decision No. 8715 on Applications Nos. 6094 and 6095.

Complainant prays for an order of the Railroad Commission declaring,

1. That no authority is contained in the decisions of the Commission authorizing defendant corporation to accept and haul freight and express between Los Angeles and Oceanside and that the defendant be required forthwith to discontinue such operation.

2. That the Railroad Commission declare that no authority is contained in its decisions authorizing defendant corporation to accept and haul freight and express between Escondido and Oceanside and that defendant forthwith cease and discontinue such operation.

3. That the Railroad Commission declare that no authority is contained in its decisions authorizing defendant corporation to accept and haul freight and express via Oceanside, between Los Angeles and points south of Oceanside to and including San Diego, and that defendant forthwith discontinue such operation.

4. That the Railroad Commission declare that no authority is contained in its decisions authorizing defendant corporation to accept and haul freight or express via Oceanside, between Escondido and points south of Oceanside to and including San Diego, and that defendant forthwith discontinue such operation.

5. That the Railroad Commission declare that an affirmative showing must be made as to the public convenience and necessity requiring motor truck service as a common carrier of freight and express between Los Angeles and points south of Oceanside to and including San Diego before defendant corporation can engage in such operation and that defendant be required to forthwith discontinue such operation.

6. That the Railroad Commission declare that an affirmative showing as to public convenience and necessity require the operation of a motor truck service as a common carrier of freight and express between Escondido and points south of Oceanside to and including San Diego must first be made before defendant can legally engage in such operation and that defendant be required to forthwith discontinue such operation.

No answer was filed by defendant herein although regular service of complaint was made upon defendant corporation and on its attorney.

Public hearing on this case was conducted by Examiner Handford at Los Angeles at which time complainant appeared in person,

defendant was represented by counsel as was also Charles D. Boynton, proprietor, Boulevard Express, as intervener.

At the hearing on this proceeding it was agreed by stipulation of counsel that the subject matter of this complaint was one that could be submitted without evidence, the interested parties agreeing to file briefs thereon and that the matter would be submitted upon the filing of said briefs. Briefs having been filed by interested parties the matter is now duly submitted and ready for decision.

The situation here presented, in the absence of testimony, is one to be determined as a question of fact from the records of the Commission. The operative rights of the Coast Truck Line, defendant herein, were acquired by transfer from Roy Jakeway and R. Roy Whetstone under the authority contained in Decision No. 8715 on Applications Nos. 6094 and 6095 as decided March 8, 1921. Roy Jakeway acquired his operative rights for the conduct of an automobile freight service between San Diego and Oceanside and intermediate points by the authority contained in the Railroad Commission's Decision No. 7787 on Application No. 5807 as decided June 24, 1920, such application having been an authorization of a transfer from R. H. and H. E. Steele, copartners, doing business under the name of Oceanside Truck Line. R. Roy Whetstone possessed operative rights as authorized by the Railroad Commission in its Decision No. 6898 on Application No. 4999, decided November 29, 1919, conferred for the handling of freight between Escondido and Oceanside and intermediate points, excepting, however, the handling of intermediate business between Los Angeles and points intermediate to Oceanside, the authority covering through service from Los Angeles to Oceanside and Escondido together with the privilege of handling intermediate business between Oceanside and Escondido. At the hearing on Applications Nos. 6094 and 6095, being the request for authority to transfer the operative rights of Whetstone and Jakeway to defendant, Coast Truck Line, protest was made against such transfer if by reason of same another through route between Los Angeles and San Diego and intermediate points would thereby be authorized and such protest was voiced by The Atchison, Topeka and Santa Fe Railway Company, Charles D. Boynton, proprietor, Boulevard Express, and the American Railway Express Company, the attitude of such protestants, as indicated by the opinion preceding the order in Decision No. 8715 on Applications Nos. 6094 and 6095, being as follows:

The attitude of these protestants is that no order should be made by the Commission approving a transfer which will make any change in the operative conditions from those now existing by reason of the operative rights being exercised by the individuals seeking transfer of their operative rights to the Coast Truck Line, a corporation. Protestants object to the consolidation of these lines, if by such consolidation authorization is conferred for the establishment of a competing line

in the district between Oceanside and Los Angeles, particularly as regards the conduct of local or intermediate business between such points. It is obvious that the Commission can not and will not approve the transfer of operative rights and allow in such transfer the expansion of operative rights as regards territory heretofore restricted when the operative rights are in the possession of an individual. The prayer of applicants is not for the expansion of their rights to cover territory heretofore restricted and, before the Commission could so authorize expansion of territory, it would be necessary for applicants to be before us in a proceeding seeking to establish public convenience and necessity as regards the restricted territory and protestants or other competing lines would receive notice of such proceeding that they might meet at a public hearing the particular issues defined. The objections of protestants will be fully met by the order in this proceeding in that such order will not authorize in the approval of transfer the expansion of any operative rights over those now possessed by applicants, Jakeway and Whetstone.

Following the opinion in the proceedings hereinabove referred to the order contained a condition as follows:

No authority is hereby conveyed for the expansion of any operative rights beyond those heretofore held by applicants Whetstone and Jakeway, under the authority contained by decisions of this Commission hereinabove specifically mentioned.

Following the granting of Applications Nos. 6094 and 6095, authority being contained in Decision No. 8715, Coast Truck Line, a corporation, filed with the Railroad Commission its supplement No. 1 to the tariff theretofore filed by R. Roy Whetstone as his C. R. C. No. 1, such tariff having been issued under date November 29, 1919, and effective January 1, 1920, and filed with the Railroad Commission on December 30, 1919. Coast Truck Line, a corporation, on April 12, 1921, filed with the Commission its tariff, C. R. C. No. 1, superseding C. R. C. No. 1 of Oceanside Truck Line (formerly operated by Roy Jakeway) and C. R. C. No. 1 of Escondido Express (formerly operated by R. Roy Whetstone), such tariff issued under date April 9, 1921, and to be effective April 11, 1921. In the issuance of the tariff of the Coast Truck Line the provisions of the order in the Commission's Decision No. 8715 on Applications Nos. 6094 and 6095 as decided March 8, 1921, were violated in that by a tariff filing the prohibition contained in Decision No. 8715 was disregarded and the effect of the rates contained in the tariff filed as C. R. C. No. 1 of the Coast Truck Line was to establish through rates between Los Angeles and points south of Oceanside and at less rates than those which would be arrived at by the combination of the local rates formerly existing under the filings of Jakeway and Whetstone on behalf of the Escondido Express and Oceanside Truck Line.

The following brief comparison of rates, as compiled from the Commission's tariff files, clearly indicates what was contemplated to be accomplished by defendant herein to secure indirectly by the filing of tariffs what had been specifically denied in the application for transfer.

COMPARISON OF RATES.

Oceanside Truck Line—Roy Jakeway.

C. R. C. No. 1, issued February 18, 1920. Effective February 23, 1920.

Between	1st class	2d class
San Diego and Oceanside, Carlsbad.....	30¢ cwt.	20¢ cwt.
San Diego and Encinitas, Cardiff, Del Mar.....	25¢ cwt.	17½¢ cwt.

Escondido Express—R. Roy Whetstone, Operator.

C. R. C. No. 1, issued November 29, 1919. Effective January 1, 1920.

Between	1st class	2d class
Los Angeles and Escondido, San Marcos, Vista.....	60¢ cwt.	48¢ cwt.
Los Angeles and Oceanside.....	55¢ cwt.	43¢ cwt.

Coast Truck Line.

C. R. C. No. 1, issued April 9, 1921. Effective April 11, 1921.

Between	Class 1	Class 2	Class 3	Class 4
Los Angeles and Oceanside.....	55¢ cwt.	50¢ cwt.	47¢ cwt.	43¢ cwt.
Los Angeles and Vista.....	60¢ cwt.	55¢ cwt.	52¢ cwt.	48¢ cwt.
Los Angeles and San Diego.....	75¢ cwt.	70¢ cwt.	60¢ cwt.	50¢ cwt.
Los Angeles and Del Mar.....				

No authority is contained in the decisions of the Commission heretofore issued and establishing the operative rights now possessed by defendant herein for the transportation of any through business between Los Angeles and points south of Oceanside nor between San Diego and points south of Oceanside and points between Oceanside and Escondido, no application having been made to the Commission for a certificate of public convenience and necessity authorizing such service. The Commission's order in Decision No. 8715 on Applications Nos. 6094 and 6095 specifically prohibits the expansion of any operative rights beyond those heretofore held by Jakeway and Whetstone, and the Commission can not tolerate the attempt of defendant, Coast Truck Line, to secure by indirection and by tariff filings an authorization for the conduct of business which, under the order permitting the transfer, was specifically prohibited. Shipments which may be consigned from Los Angeles to Oceanside, there to be taken over the other portion of the route to San Diego, can be handled but cannot be transported in the same vehicle, must be transferred at Oceanside and the through rate must be a combination of the local rates as formerly existing when the lines were operated as separate

entities, unless proper authority has been secured from this Commission after formal application and the action of the Commission thereon. The same is true with shipments which may originate at or be destined to the portion of the line between Escondido and Oceanside when such shipments originate at or are destined to any portion of the line between Oceanside and San Diego. The linking of operative rights to form a through route has heretofore received the attention of the Commission and the provisions of Decision No. 9892 in the matter of Applications Nos. 5274 and 5361 fully set forth the attitude of the Commission and require a showing of public convenience and necessity for the through service proposed to be established before such can be inaugurated.

ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted on briefs filed by interested counsel and the Commission being fully advised;

It is hereby ordered, that no further transportation of freight shipments by Coast Truck Line, a corporation, shall be made between Los Angeles and points south of Oceanside to and including San Diego; or between the territory from San Diego to Oceanside when shipments originate at or are destined to the territory between Oceanside and Escondido; that all rates as now appearing in the tariff of defendant, Coast Truck Line, as filed with this Commission under C. R. C. No. 2 as issued November 12, 1921, and effective November 15, 1921, for the movement of such shipments between the prohibited territory above mentioned are hereby cancelled; and that before accepting or transporting any further shipments between the points hereinabove specifically prohibited, defendant, Coast Truck Line, will be required to make an application for a certificate of public convenience and necessity and justify such application at a public hearing to be held thereon.

Dated at San Francisco, California, this twenty-first day of April, 1922.

DECISION No. 10347.

CITY OF OAKLAND, A MUNICIPAL CORPORATION,

vs.

EAST BAY WATER COMPANY, A CORPORATION.

Case No. 1620.

CITY OF BERKELEY, A MUNICIPAL CORPORATION,

vs.

EAST BAY WATER COMPANY, A CORPORATION.

Case No. 1623.

CITY OF RICHMOND, A MUNICIPAL CORPORATION,

vs.

EAST BAY WATER COMPANY, A CORPORATION.

Case No. 1633.

CITY OF SAN LEANDRO, A MUNICIPAL CORPORATION,

vs.

EAST BAY WATER COMPANY, A CORPORATION.

Case No. 1634.

CITY OF ALAMEDA, A MUNICIPAL CORPORATION,

vs.

EAST BAY WATER COMPANY, A CORPORATION.

Case No. 1636.

IN THE MATTER OF THE APPLICATION OF EAST BAY WATER COMPANY, A CORPORATION, FOR AN ORDER ADJUSTING AND FIXING RATES.

Application No. 4841.

IN THE MATTER OF THE APPLICATION OF EAST BAY WATER COMPANY, A CORPORATION, FOR AN ORDER ADJUSTING, FIXING AND INCREASING RATES.

Application No. 7187.

Decided April 22, 1922.

RATES.—WATER UTILITY—FIRE PROTECTION—EXCESS PLANT CAPACITY—NOT FAIR CHARGE TO CONSUMERS.—As fire protection is a direct benefit to a community, it is held that the cost of excess plant capacity for this purpose can not fairly be charged and paid for under cover of an increase in the unit rates for water consumed for domestic and industrial purposes.

WATERSHED LANDS—OPERATIVE AND NONOPERATIVE.—It is held that the applicant company can, without endangering the health of consumers, dispose of watershed lands outside of a 1500-foot margin around the reservoirs and principal stream courses. It is found that \$2,600,000 represents the value of non-operative real estate which is excluded from the rate base.

RATE OF RETURN—RATE BASE—DECLINING OPERATING COSTS—INCREASING GROSS EARNINGS.—A present return of 7.33 per cent upon a rate base of \$18,916,128 found reasonable, is held so closely to approximate a theoretical "fair return" that a rate increase is not justified. A further decline in operating costs and steadily increasing gross earnings through growing business may be expected to reflect themselves in the fair return to the advantage of the company.

RATES—CONTRACTS—JURISDICTION.—A contract between the Southern Pacific Company and applicant company is held subject to regulation, and as the rates provided for are found to be discriminatory and preferential they are ordered set aside.

McKee, Tasheira and Wahrhaftig, by *Arthur G. Tasheira*, for East Bay Water Company.

D. J. Hall, for City of Richmond.

W. J. Locke, for City of Alameda.

J. Allison Bruner, for City of San Leandro.

Frank V. Cornish, for City of Berkeley.

Leon Gray, for City of Oakland.

J. E. Lyon, for Southern Pacific Company.

C. W. Dooling, for Western Pacific Railroad Company.

Mrs. W. T. Cleverdon, for California State Housewives League.

Mrs. Henrietta Johnson, for Berkeley State Housewives League.

Mrs. N. J. Platts, for Glenview Women's Club.

Mrs. C. M. Weymann, for Golden Gate Improvement Club.

W. S. Kepple, for Foothill Community Development Association.

H. Frederick, for Apartment House Association of Alameda County.

E. H. Battig, San Leandro, in *propria persona*.

Mrs. Tenney, for Alameda State Housewives League.

Julia A. Martin, for Auxiliary of Spanish War Veterans.

Mrs. J. Eastman, for Oakland Housewives League.

S. J. Donohue, for Building Trades Council of Alameda.

MARTIN AND BENEDICT, *Commissioners*.

OPINION.

This Commission, by Decision No. 6755, dated October 11, 1919, in Application No. 4841, established rates to be charged by East Bay Water Company for service rendered the municipalities and individual consumers supplied through its water system. This decision also authorized the collection, until further order of the Commission, of a surcharge of ten per cent on all bills rendered by the company.

In 1921, the municipalities of Oakland, Berkeley, Richmond, San Leandro and Alameda made complaint against the rates charged by East Bay Water Company, alleging in effect that they are exorbitant and that the necessity for the surcharge established by Decision No. 6755 no longer exists. The Commission was therefore asked to fix reasonable rates for the service rendered.

Subsequently East Bay Water Company filed Application No. 7187, alleging in effect that an increase in its rates is necessary in order that the construction of additional facilities, required to render adequate service to consumers, may be financed, and in order that the utility may be permitted to earn a reasonable return upon the fair value of the property.

Thereupon the above entitled proceedings, including further hearing in Application No. 4841, were consolidated for hearing and decision upon all of the matters involved, oral and documentary evidence was presented, memoranda were filed, and the matters have been submitted.

East Bay Water Company was organized on or about November 13, 1916, for the purpose of taking over and operating the properties of Peoples Water Company, which was so financially embarrassed that a reorganization was necessary, and both companies have been before the Commission a number of times in various proceedings. The most vital and noteworthy of these matters were Application No. 1531, entitled: *In the Matter of the Application of Peoples Water Company for reorganization*, and Case No. 1008, entitled: *In the Matter of the Commission's Investigation into the rates, rules and regulations of Peoples Water Company*.

For a detailed description of the system and its history reference is made to the Commission's decisions in these and other matters in which the companies have been involved.

Presentation of evidence regarding rate bases, depreciation annuity and maintenance and operating expense was made by Messrs. C. H. Loveland and G. H. Wilhelm, for East Bay Water Company; by Mr. R. W. Hawley, for the East Bay cities; and by Mr. M. E. Ready, one of the Commission's hydraulic engineers.

The representatives of the company presented five rate bases for the Commission's consideration, ranging from \$23,957,179 to \$30,331,766. These amounts were obtained by adding to the totals of various appraisals submitted to the Commission in former proceedings the cost of net additions to the property made subsequent to the dates of the various appraisals. The amounts submitted also include the estimated cost of certain proposed improvements to the property; the cost of the system of the Union Water Company of California, recently purchased by East Bay Water Company; and certain estimated amounts for working capital.

These basic appraisals, covering the property as it existed on January 1, 1915, and used by East Bay Water Company in building up the rate bases submitted herein, have previously been considered and passed upon by the Commission in former proceedings. For this reason the so-called Cory and Cory appraisal and the Herman appraisal need not be given further consideration in the present proceedings.

The following tabulation sets forth the essential details of the comparable rate bases presented by the various parties hereto:

	C. H. Loveland, for East Bay Water Company	R. W. Hawley, for East Bay cities	M. E. Ready, for Railroad Commission
Value as of January 1, 1915, of lands, physical properties and intangible items comprising system of Peoples Water Company transferred to East Bay Water Company. See Commission's Decision No. 2586, Vol. 7, page 597, O. and O., C. R. O.-----	\$14,100,000 00	\$14,100,000 00	\$14,100,000 00
Accrued depreciation-----	2,615,648 00		
Purchase of system of Union Water Company of California-----	1,100,000 00	1,100,000 00	1,100,000 00
Additions to capital from January 1, 1915, to June 30, 1921-----	6,413,401 00	6,413,401 00	6,413,401 00
Add for completion of San Pablo project subsequent to June 30, 1921-----	158,646 00	158,646 00	158,646 00
Working capital-----	300,000 00		200,000 00
Proposed extensions-----	2,245,793 00		
Subtotal -----	\$26,933,488 00	\$21,772,047 00	\$21,972,047 00
Deductions:			
Nonoperative real estate-----	\$1,908,814 00	\$4,162,863 00	\$1,908,814 00
Retirements or abandonments, January 1, 1915, to June 30, 1921--	446,395 00	449,876 00	315,919 00
Total deductions -----	\$2,355,209 00	\$4,612,739 00	\$2,224,733 00
Net totals -----	\$24,578,279 00	\$17,159,308 00	\$19,747,314 00

East Bay Water Company contends that the value of the system of Peoples Water Company was fixed by the Commission at \$14,100,000 for purposes of reorganization only; that it was a depreciated figure which did not represent value either for sale or for rate fixing purposes; and that the transfer of the properties of Peoples Water Company to East Bay Water Company was not in any sense a sale of the properties but was simply a step toward the reorganization of the old company under a new name. It is asserted by East Bay Water Company that accrued depreciation, amounting to \$2,615,648, should be added to this value of \$14,100,000 in order to arrive at a proper rate base as of January 1, 1915.

We can not agree with this argument. Decision No. 2586 makes it perfectly clear that the reorganization of the Peoples Water Company involved an outright sale of its properties to East Bay Water Company. The decision states:

The reorganization plan contemplates a sale of all of the property of Peoples Water Company to a new corporation * * *.

I recommend that the application be granted and that Peoples Water Company be authorized to sell and transfer all of its property, real, personal and mixed, to a corporation to be hereafter organized * * *.

The decision also makes it clear that in a rate proceeding some reduction from the value found for reorganization purposes might be expected. The language of the decision is as follows:

After a careful consideration of all of the evidence in this case, I have come to the conclusion that the fair value of the property of the Peoples Water Company at this time is the sum of \$14,100,000.

It must be borne clearly in mind that this value is determined on for the purpose of this proceeding only. It may very well be that a proceeding before this Commission to fix the just compensation which the public should pay for this plant upon taking it over would result in a different figure.

Furthermore, in a rate inquiry a determination would be necessary as to what part of this plant, particularly land, was used and useful in the service of consumers. This being an inquiry to determine upon an issue of stocks and bonds, the entire property owned by the company has been valued, but, of course, it does not follow that all of this property should be charged against consumers in a rate fixing inquiry.

These statements are reaffirmed in Decision No. 2664, in which the Commission denies the application of Peoples Water Company and Frank C. Havens for rehearing, and it is evident that the Commission, when it so carefully pointed out that for rate fixing purposes certain deductions should be made from this finding of value, would also, in justice to the company, have indicated the necessity for the use of an undepreciated rate base had it believed that such a procedure was equitable.

That the security holders of Peoples Water Company and East Bay Water Company realized and admitted that this value of \$14,100,000, placed by the Commission upon the property as of January 1, 1915, was a reasonable figure for sale purposes is unmistakably set forth in this Commission's Decision No. 3221, which states as follows:

Under the amended plan as presented, the city of Oakland, a water district or other municipal corporation, is given a year's option to purchase the water properties under certain specified terms, for \$14,100,000.

This proposal is set forth as follows in the plan of reorganization to which the security holders have assented:

Without affecting any pending action toward reorganization in private ownership, all persons becoming parties to the modified plan will agree that the properties of the Peoples Water Company or the East Bay Water Company may be acquired by the city of Oakland or a water district or other municipal corporation desiring to supply the community or any of the communities now supplied by the Peoples Water Company with water before January 1, 1917, at the sum of \$14,100,000, plus such sum of money as may have been expended in betterments and extensions and acquisition of new property since January 1, 1915, and plus such sums of money as shall be equal to the value of any material on hand, less such sum of money as the company may have obtained from the sale of any property.

The foregoing statements, contained in the Commission's decisions affecting the reorganization proceedings of Peoples Water Company, indicate clearly that the cost to East Bay Water Company of the property as it existed on January 1, 1915, was \$14,100,000, and that no injustice will be inflicted upon that company by the use of this figure, without the addition of any amount for accrued depreciation,

in the building up of a rate base for the purpose of the present proceedings, provided that proper allowance is made through depreciation annuity to return to the company the purchase price at the ends of the remaining lives of the various structures.

Neither will such a procedure result, in view of the conditions affecting these proceedings, in an unjust combination of two methods of computing depreciation.

Testimony at the hearings indicated that the purchase of the plant of the Union Water Company of California was effected at a cost of approximately \$960,000, established as a fair value of the property by this Commission in its Decision No. 8491. The sum of \$960,000 will, therefore, be included in the rate base to cover the acquisition of this property.

The amounts set out by all parties to cover additions to the plant made subsequent to January 1, 1915, and for the completion of the San Pablo project, amounting to a total of \$6,572,047, are in exact agreement and will be allowed.

The company asks that there be included in the rate base the sum of \$300,000 for working capital. Mr. Hawley contends that any allowance for this purpose is unnecessary in this proceeding, while Mr. Ready includes \$200,000 for such uses. The Commission has in many proceedings recognized the necessity for reasonable allowances for working capital and in the present instance will include the sum of \$200,000 for this purpose.

Evidence indicates that certain improvements of the company's distribution system are desired by the municipalities in order to improve the service for fire protection and thereby reduce insurance rates. Some betterment of domestic service would be secured by the contemplated improvements, but by far the greater benefits would accrue to the general public through improved fire protection. The company has signified its willingness to expend \$2,245,793 on the proposed construction work and has included this sum in the rate base presented for the Commission's consideration. The position of the city of Oakland is that these costs should not be included in rate base until the expenditures have actually been made and the work completed. The position of the other municipalities is in general terms that interest and other charges which result from this construction should be distributed among the individual consumers and not assessed against the municipalities, on the ground that the present tax rates can not be increased sufficiently to carry the necessary additional costs.

In previous decisions the Commission has pointed out that in order to furnish adequate protection against fire it is necessary to install facilities of greater capacity than are required to supply the ordinary

domestic and industrial demands of consumers; that such protection against fire is a direct benefit to the communities; and that the excess capacity of the water system which may be deemed justified by the necessity of providing for these emergency demands cannot fairly be charged against regular consumers and paid for under cover of an increase in the unit rates for water consumed for domestic and industrial purposes. Further, the Commission can not refrain from assessing proper charges for public utility service merely because certain consumers, even though they be municipalities, assert that it is difficult or inconvenient to pay such charges.

The public use charges established by the Commission in Decisions No. 5534 and No. 6755 provide for payments by the municipalities for the facilities provided for fire protection. These charges, being based upon the length and diameters of large sized mains, are so designed that the charges are automatically adjusted to provide for payment for additional lengths or enlargements of mains.

These rates are not, however, designed to cover full interest and other charges upon the cost of the facilities, but it is apparent that the carrying charges for the improvements proposed by East Bay Water Company, which are primarily intended for fire protection purposes, should be paid, in a very large measure, by the general public, through the municipalities, rather than by the company's regular consumers.

Under the circumstances, it is believed that the utility and the municipalities should endeavor to work out some solution to the problem in a manner which is mutually satisfactory, and that the cost should not at this time be included in the rate base.

That portions of the real estate owned by East Bay Water Company are non-operative and should not be included in the rate base is admitted and is so stated in the Commission's former decisions. Decision No. 5534, after a very careful consideration of all testimony regarding the claimed necessity for retaining ownership in watershed lands surrounding reservoirs for sanitary reasons, recommended that there be retained by the company a margin of approximately 1,500 feet around the reservoirs and along the principal stream courses in this system, and that the remainder of the watershed lands be disposed of. East Bay Water Company, in the present proceedings, submitted testimony along lines similar to that presented in the previous proceeding in an attempt to show that it was necessary, as a sanitary measure, to retain all watershed lands now owned by the company.

This testimony, as well as that previously submitted, has received very careful consideration and we have come to the conclusion that the previous decision of the Commission is well supported by the

evidence, and that the utility can, without endangering the health of its consumers, dispose of lands outside the 1,500 foot margin previously referred to. The possible exception to this finding is in relation to the lands at San Leandro, which should, perhaps, be retained until a more modern type of filter is installed.

Under the circumstances, and in view of the evidence submitted by all parties, we believe that the sum of \$2,600,000 fairly represents the value of non-operative real estate which should, at this time, be excluded from the rate base.

Some question was raised as to whether the company has correctly charged off those portions of its property which have been abandoned or retired. The amount of these retirements, as shown by the utility's books, and including some minor adjustments, is \$315,919, and is, we believe, a reasonably accurate figure to be used in computing the rate base.

As a result of the foregoing consideration and discussion of the various elements vitally affecting the matter, we believe that the sum of \$18,916,128 is a reasonable rate base for the purpose of this proceeding.

Based upon the cost of the physical property included in the foregoing rate base and upon a reasonable total life or remaining life for each individual structure, the sum of \$170,218 is a reasonable allowance for depreciation annuity, and has been computed by the sinking fund method at 6 per cent.

The estimates of reasonable maintenance and operating expense for the year 1922, as presented by the company, the municipalities and the Commission, varied widely, the totals being as follows:

East Bay Water Company, by C. H. Loveland.....	\$1,311,905 00
East Bay Cities, by R. W. Hawley.....	874,154 00
Commission, by M. E. Ready.....	1,104,481 00

Mr. Hawley's total does not include any allowance for maintenance and operating expense of the plant formerly owned by Union Water Company of California, which was estimated by Mr. Loveland at \$45,000, and by Mr. Ready at \$44,750.

The various estimates for future maintenance and operating expense have been exhaustively studied and careful consideration has been given to the entire testimony covering the various items making up the totals. It appears that during the year 1921 substantial reductions occurred in material prices and that the costs of fuel and power have decreased, but that labor costs have not been materially reduced except in a few instances. It is evident that the effect of these reductions in cost may reasonably be expected to be reflected in operating expense

during the present year, and that the system can be maintained and operated in an efficient manner for \$1,140,000 per annum.

Revenues of this utility have consistently increased each year since the reorganization of the Peoples Water Company and the acquisition of the property by East Bay Water Company. During the year 1921 the operative revenues amounted to \$2,526,185, including two months' revenue from the consumers of the old Union Water Company. It is estimated that the total revenue would have been \$2,698,185 if that system had been operated for the entire year by East Bay Water Company.

Based upon the foregoing items the results of operation for the year 1922 may reasonably be expected to be at least as favorable to the utility as is indicated below:

Revenues	\$2,698,185 00
Expense :	
Maintenance and operation	\$1,140,000 00
Depreciation annuity	170,218 00
Total	1,310,218 00
Net earnings	\$1,387,967 00

This is equivalent to a return of 7.33 per cent, upon the rate base of \$18,916,128, heretofore found reasonable. This estimated return approximates so closely what may be considered a theoretical "fair return" that higher rates than those now in effect cannot be justified. A further decline in operating costs on the one hand and steadily increasing gross earnings through growing business on the other hand may confidently be expected and such conditions will naturally reflect themselves in the fair return, to the advantage of the company. On the other hand the showing is conclusive that the present rates do not yield an exorbitant return.

Under the circumstances we believe that the present rates charged by East Bay Water Company, established by the Commission in Decision No. 6755, in Application No. 4841 and Case No. 1008, should continue in effect.

The contract between the Southern Pacific Company and East Bay Water Company, as successor to the interests of Union Water Company of California, is clearly subject to regulation by the Commission. The same is true as to the contract with Western Pacific Railroad Company. As the rates provided for in these contracts are discriminatory and preferential they should be set aside and charges made in accordance with the regular schedule of rates of East Bay Water Company.

We recommend the following form of order:

ORDER.

The cities of Oakland, Berkeley, Richmond, San Leandro and Alameda having made complaint against the rates charged by East Bay Water Company, and East Bay Water Company having made application for authority to increase its rates, public hearings having been held thereon, and the matters having been submitted:

It is hereby found as a fact that the rates now charged by East Bay Water Company, as established by the Commission in Decision No. 6755, in Application No. 4841 and Case No. 1008, are just and reasonable rates to be charged for water delivered to its consumers.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that East Bay Water Company be and the same is hereby authorized and directed to charge for water delivered to consumers the rates now on file with, and established by, this Commission in Decision No. 6755, until further order of the Commission.

It is hereby further ordered, that the complaints of the cities of Oakland, Berkeley, Richmond, San Leandro and Alameda, as entitled above, be and they are hereby dismissed.

It is hereby further ordered, that Application No. 7187 of East Bay Water Company for authority to increase its rates be and the same is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-second day of April, 1922.

DECISION No. 10348.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR A REVISION AND ADJUSTMENT OF RATES.

Application No. 6651.

IN THE MATTER OF THE INVESTIGATION OF THE ELECTRIC RATES, SERVICE AND OPERATIONS OF SAN JOAQUIN LIGHT AND POWER CORPORATION, ON THE COMMISSION'S OWN MOTION.

Case No. 1544.

Decided April 25, 1922.

SERVICE—PUBLIC RELATIONS—DISTRICT MEETINGS—UNIFORM PRACTICES.—The company is directed to establish the practice of holding monthly meetings so that district managers may be kept informed of rules and regulations and policies affecting public relations.

35—17236

EXTENSIONS.—Company ordered to give consumers benefit of most favorable rule applying to extensions.

CONTRACTS—COPIES TO CONSUMERS.—Company directed to supply consumers with copies of all contracts and to adjust extension contracts to the basis of actual cost.

RATE BASE—INTANGIBLE VALUES—COST TO REPRODUCE BUSINESS.—It is held that the cost to reproduce a given amount of business can not be computed simply by taking the deficit below a full return upon the investment over a series of years.

WATER RIGHT VALUE.—It is held that the method of capitalizing the supposed advantages of existing water rights over other actual or hypothetical sources of power, affords no constant figure sufficiently fixed to justify any computation of value fair either to the company or the consumers.

PRESENT VALUE OR REPRODUCTION COST NEW, DEPRECIATED.—The Commission announces the conclusion that to substitute "present value" or reproduction cost new, depreciated, for the historical reproduction cost heretofore followed by the Commission in rate making, would result finally in disaster to the companies themselves.

DEDUCTIONS—EXCESS COSTS—INEFFICIENCY OF PLANT.—Total deductions from the rate base of \$1,351,300 are made on account of inefficiency of plant, excess cost of construction of transmission line and hydroplant construction not justified by business of 1922.

RATE OF RETURN.—It is held that the contention that a 7 per cent return on the operative investment for the applicant company as compensation for its service is obviously too extreme for serious consideration.

COST OF MONEY—MARGIN OVER.—The Commission states that it has not strictly followed the precedent of allowing 2 per cent in excess of the average cost of money from bonds.

COST OF MONEY—HIGH INTEREST RATES—UNFAIR TO RECOGNIZE IN RATE PROCEEDING.—It is declared unfair in a decision affecting rates to recognize the high interest rate paid on bonds when some of these bonds are being refunded and others should be, if interest rates continue to decline.

DEPRECIATION.—The depreciation annuity of 1.54 per cent of the rate base excluding material, supplies and working cash capital, is retained in the present case. The depreciation annuity so determined is based upon a 6 per cent sinking fund and represents the estimated amount which, set aside annually with compound interest at 6 per cent will be sufficient to cover the original cost of the various units of property at the expiration of their probable life.

DEPRECIATION ALLOWANCE—FULL ACCOUNTING ANNUITY—INTEREST ON RESERVE.—It is held that where depreciation allowance is made the utility should fully account for the annuity as well as interest on the reserve.

OPERATING CHARGES—STATE TAXES.—The tax which becomes a lien upon the company's property on the first Monday of March, 1922, is determined as $7\frac{1}{2}$ per cent of the gross operative revenue for the year 1921, less uncollectible bills. While the second half of the tax does not become delinquent until the first Monday of February, 1923, it is held that the total amount of the tax constitutes an obligation for the year 1922. A reasonable estimate of state taxes is declared to be an allowance equal to the amount which will become a lien upon the property during the year used in determining the reasonableness of existing rates.

FEDERAL INCOME TAX.—It is held that federal income tax is not properly included in operating expenses.

Edwin O. Edgerton, Jared How, Murray Bourne, for San Joaquin Light and Power Corporation.

Frank S. Brittain, for California Farm Bureau Federation, C. A. Melcher and E. Easton.

H. M. Johnston, city attorney, for City of Fresno.

Edson Abel and J. J. Deuel, for Kern County Farm Bureau.

Walter Rothschild, for Rosenberg Bros. and Company.

G. G. Washington, for Merced County Farm Bureau.

P. A. Cleveland, for City of Corcoran.

O. M. Davis, for Fairmead Farm Bureau.

Wesley P. Grijalva and *J. A. Hinman*, for City of Bakersfield, Merchants Protective Association of Bakersfield, City of Taft and City of Delano.

Alcz. Gordon, for certain consumers of Fresno.

E. H. Marxen, city attorney, for City of Bakersfield.

H. T. Miller, for Civic Commercial Association of Bakersfield.

Irving H. Althouse, for Alpaugh Irrigation District.

Fee and Ring, by *W. C. Ring*, for Madera County Public Utilities Association.

ROWELL, *Commissioner*.

OPINION.

Case No. 1544 is a proceeding instituted on the Commission's own motion to investigate the rates and operations of the San Joaquin Light and Power Corporation with a view to establishing just rules and practices and to fixing reasonable rates to be charged for electric service by that utility to its consumers. This proceeding was instituted March 3, 1921, and hearings held during that month for special consideration of the agricultural rates to be made effective for 1921. The proceeding, in so far as it referred to the agricultural rates, was submitted and the Commission by Decision No. 8820, dated April 7, 1921 (Opinions and Orders of the Railroad Commission of the State of California, Vol. 19, page 636), fixed rates for agricultural service for 1921.

Application No. 6651 was filed by San Joaquin Light and Power Corporation, hereafter referred to as San Joaquin Company, company or applicant, on March 18, 1921. In this petition San Joaquin Company requests a full and complete valuation of its operating properties and a full and complete revision and adjustment of its rates for electric service to the end that each class of service rendered by it shall pay its just proportion of applicant's expense of operation and of the reasonable return to which applicant may be entitled, and that applicant may receive a net return which shall be adequate, just and reasonable.

Following Decision No. 8820 this Commission directed its engineering and accounting staffs to make an investigation of San Joaquin Company's operations in connection with the further hearing in Case No. 1544. San Joaquin Company carried on investigations in connection with its Application No. 6651 and Case No. 1544.

Case No. 1544 was set for further hearing, with Application No. 6651, on December 13, 1921, at which time the two proceedings were consolidated for hearing as they involve the same matters. Extended hearings were held in Fresno in December, 1921, January and February, 1922, in Bakersfield in February, 1922, and in San Francisco in March, 1922, at which evidence was introduced by the Commission's staff, by San Joaquin Light and Power Corporation and by certain

consumers, and on March 10, 1922, the proceeding was submitted subject to the filing of briefs. Briefs were filed by attorneys for San Joaquin Company, by F. S. Brittain, attorney for California Farm Bureau Federation et al., on March 23, 1922, and on March 1, 1922, by W. P. Grijalva and J. A. Hinman, and the matter is now ready for decision.

The matters before the Commission in this proceeding involve a complete reconsideration and determination of the value for rate-making purposes of the electric properties of the San Joaquin Company and of reasonable rates for electric service.

The electric rates of the San Joaquin Company have already been the subject of several proceedings before this Commission. In 1916, after an exhaustive investigation into the capital, operations and rates, this Commission rendered its Decision No. 3241 (Opinions and Orders of the Railroad Commission of the State of California, Vol. 9, page 542) fixing and reducing the rates of the San Joaquin Company effective April 20th of that year. A review of the effect of the application of these rates was made in Case No. 1042, Decision No. 4289, dated May 2, 1917 (Opinions and Orders of the Railroad Commission of the State of California, Vol. 13, page 142), and certain slight modifications made. During the war and post-war period of high prices application was made to the Commission for authority to increase rates and the Commission in connection with Application No. 3531, in its Decision No. 5449 (Opinions and Orders of the Railroad Commission of the State of California, Vol. 15, page 788), authorized a 10 per cent surcharge, and in Decision No. 6095 in Application No. 4064 (Opinions and Orders of the Railroad Commission of the State of California, Vol. 16, page 440), increased the surcharge to 15 per cent. In 1920, in Decision No. 7305 (Opinions and Orders of the Railroad Commission of the State of California, Vol. 17, page 940), the rates of San Joaquin Company were modified and further increased approximately 15 per cent. In Decision No. 8820 in Case No. 1544 the agricultural rates of San Joaquin Company were reduced an average of approximately 5 per cent.

The proceedings following the exhaustive investigation in connection with Decision No. 3241 have been in general of an emergency nature, the basis for rates being the findings in connection with Decision No. 3241 as to capital plus additions and betterments. These present proceedings are in general of a nature similar to that of 1916 and involve a complete reconsideration of all the rates and practices of the company.

In these proceedings extensive evidence was introduced by San Joaquin Company through testimony of its engineers and executives

and in documentary form by the presentation of fifty exhibits, some of which were introduced at the request of the Commission and parties represented in these proceedings. Eighteen exhibits were submitted by the Commission's staff of engineers and accountants in connection with the testimony of its special accountant, Thos. Hughes, and its engineers, R. M. Vaughan and W. J. Dodge. Evidence was also introduced on behalf of consumers, one exhibit by the California Farm Bureau Federation, one by Alex. Gordon, one by Merced County Farm Bureau, one by Jay A. Hinman, one by Rosenberg Bros. and Company, and three by individual consumers. In addition, several consumers appeared before the Commission and testified regarding application of rates and individual complaints.

Besides the exhibits filed in these proceedings it was agreed by stipulation that certain of the monthly statements of the company to the Railroad Commission might be considered in evidence as well as the annual reports to this Commission; also, in view of the fact that the estimates submitted by Mr. F. Emerson Hoar, Consulting Engineer for San Joaquin Light and Power Corporation, relative to the value of water rights, were based largely upon a report prepared by him in a proceeding (Application No. 5567) of Pacific Gas and Electric Company before this Commission, it was stipulated that his report in that proceeding, together with evidence relative thereto, in so far as it was relevant, might be considered in evidence and referred to in these proceedings.

In these proceedings there is presented for consideration and decision by this Commission the matter of the fair valuation of the electric properties of San Joaquin Company used and useful in the public service, the reasonable rate of return thereon, the fixing of fair rates and establishment of just and equitable rules and practices.

San Joaquin Light and Power Corporation serves electricity for domestic and commercial lighting and heating and for industrial and agricultural power purposes in the counties of Merced, Madera, Mariposa, Kings, Tulare and Kern, and wholesales power for redistribution by Midland Counties Public Service Corporation to San Luis Obispo and Santa Barbara Counties, and also wholesales power under temporary agreements to the Pacific Gas and Electric Company and Southern California Edison Company. Applicant operates at the present time ten hydro-electric plants with a total rated capacity of 82,500 kilovolt amperes and four steam plants with a rated capacity of 42,250 kilovolt amperes, making a total of 124,750 kilovolt amperes. The main steam plants are operated with natural gas as fuel, which is obtained from the oil fields in western Kern County. Table No. 1 sets

forth the number of consumers served, connected load, sales and revenue for the year 1921 as reported by San Joaquin Company.

TABLE NO. 1.
San Joaquin Light and Power Corporation Electric Service, 1921.

Class of service	No. of consumers	Connected load, horsepower	Kilowatt hour sales	Revenue
General lighting.....	36,029	40,700	18,138,605	\$1,212,763 00
Commercial lighting.....	361		6,919,525	228,185 00
Public outdoor lighting.....	79	24,900	3,018,618	79,706 00
Electrolier systems.....	6		1,083,689	22,804 00
Combination lighting, heating and cooking.....	218	1,428	878,500	23,005 00
Agricultural service.....	4,385	64,100	66,209,994	1,241,130 00
General industrial.....	2,044	41,225	27,219,910	638,855 00
Oil fields service.....	172	9,290	15,116,152	213,988 00
Substation service.....	24	18,630	39,308,478	414,464 00
Transmission service.....	1	1,632	5,228,585	48,876 00
M. C. P. S. corporation.....	6	27,190	41,391,444	355,197 00
Electric railway and Fresno city water.....	10	4,140	9,397,974	104,146 00
X-ray apparatus.....	8	51	2,325	157 00
Employees' rates.....	372		197,106	7,841 00
Company business, electric department.....	40		523,433	
Company business, other departments.....	20		521,992	
Foreign sales.....	2		78,635,505	493,664 00
Totals.....	43,807	233,286	313,791,835	\$5,084,781 00

The growth of business of the San Joaquin Company has been very rapid. Table No. 2 sets forth the operative investment in property as reported in the company's Exhibit No. 5 from 1916 to 1921, the rated plant capacity at the end of each year, the annual output, sales and revenue for each year, and the number of consumers served.

Owing to the rapid increase in demand for service during the war period and immediately thereafter, San Joaquin Company was forced to the limit in attempting to meet the demands for service in its territory. During the years 1917 and 1918, in common with practically all other utilities, San Joaquin Company was prevented from enlarging its facilities owing to war necessity requirements, although the demand upon its system was greater than during any other period. As a result a shortage in plant capacity existed and it was necessary to refuse to take on consumers to any great extent until the middle of 1920.

Upon the cessation of war activities San Joaquin Company took immediate steps for the installation of additional plant capacity and during the period from the spring of 1919 until the summer of 1920

TABLE NO. 2.
San Joaquin Light and Power Corporation Electric Department—Statistical Data, Years 1916-1921.
 (Data as reported by the San Joaquin Light and Power Corporation.)

	1916	1917	1918	1919	1920	1921
Investment, exclusive of materials and supplies, as of December 31-----	\$9,865,313 00	\$10,962,351 00	\$12,787,813 00	\$14,511,670 00	\$23,870,895 00	\$31,357,868 00
Revenue -----	1,552,961 00	1,758,666 00	2,308,631 00	2,922,611 00	3,933,411 00	5,084,781 00
Rated plant capacity—kilovolt amperes:						
Hydro -----	25,850	32,075	32,075	33,500	76,100	82,500
Steam -----	17,475	17,250	17,250	17,250	29,750	42,250
Totals -----	43,325	49,325	49,325	50,750	106,850	124,750
Kilowatt hour production-----	110,920,894	143,129,588	174,963,951	190,621,410	285,265,010	395,398,090
Kilowatt hour sales-----	80,602,724	110,273,839	144,621,025	183,542,639	235,485,539	313,791,835
Number of consumers-----	23,238	26,403	28,604	31,804	36,093	43,807

it carried to completion the installation of its Kerckhoff development at a cost of approximately \$6,000,000, making available an additional 35,000 kilowatts of capacity, and a 12,500 kilowatt steam unit in its Bakersfield steam plant at a cost of approximately \$1,000,000, and during the year 1921 enlarged the capacity of its Kern Canyon plant by 6,000 kilowatts and built a 12,500 kilowatt steam plant in the Midway gas and oil fields. In addition to building these power plants applicant increased its transmission and distribution systems to meet the demands made upon it. From January, 1918, to December, 1921, applicant increased its generating capacity 150 per cent and its investment in property practically 200 per cent.

Service investigation.

Prior to the hearings and in connection with these proceedings a complete survey of the service conditions of San Joaquin Company and investigation of complaints by consumers was carried on by Commission Engineers W. J. Dodge and Albert G. Cage. Some twenty-one meetings were held in the territory served by the San Joaquin Company, at which some 1400 consumers (representing approximately one-third of the agricultural consumers served) appeared. Special attention was given to agricultural service conditions. The results of this investigation were set forth in the Commission's Exhibit No. 9, introduced by Mr. Dodge.

The object of this investigation was to determine directly the causes of complaint on the part of consumers, the class of the service rendered, and the views and suggestions of the consumers relative to applicant's rates, rules and practices. The complaints as found covered a wide and varying field, and while some were unreasonable, many others had good grounds and were the source of valuable information to the Commission. Complaints regarding agricultural service were in general to the effect that the rates were too high and the schedule not of the most favorable form under existing conditions. Many of the complaints regarding the application of schedules, rules and practices appeared to be due to the company's employees not fully understanding the application of the rules and the lack of a full explanation by the company's employees to the consumers. Suggestions as to possible modification of the rates will be given careful consideration in the schedules fixed herein. Considerable complaint was received relative to the cost of extensions in rural territory, inefficiency in labor and lack of supervision being alleged.

These matters were given careful consideration by the Commission's engineers and it appears advisable to make certain recommendations in this decision relative to the operations of the company and modifications in its rules, regulations and practices.

There appears to be considerable belief on the part of consumers that the company has been very inefficient in its construction work and plant operation. Many statements were made to this Commission's engineers regarding inefficiency of construction of distribution lines and also of their larger power plants. Careful study was made by this Commission's engineers of allegations, by the consumers, of inefficiency of the San Joaquin Company. The results showed that the hydro plants were constructed with good efficiency under the conditions existing in 1919 and 1920 and that complaints relating to this matter were not justified.

It does, however, appear that inefficiency in labor did exist in the construction of distribution lines and equipment and this conclusion is borne out by the testimony in these proceedings. This inefficiency occurred during the years 1919 and 1920, when general conditions of inefficiency existed in all lines of labor, not only with this company and other power companies but also in practically all other industries. This inefficiency was admitted by the company, whose general manager contended that it was impossible to overcome the difficulty until the better labor conditions of the last year occurred. A number of the complaints relative to inefficiency were unfounded when fully investigated. Improvement in the efficiency of the company can be made and steps along this line have been taken by the company's management.

Some complaint was received relative to service interruptions and also low voltage. The engineers' report shows, however, that, as a whole, the service of the San Joaquin Company during the past two or three years has been as good as, and in many instances better, than that on other systems. Unsatisfactory conditions did exist in 1920, due to rapid growth of the company's business and to the existing power shortage. The evidence shows that the company has made a special effort to eliminate poor service conditions wherever found and, with the exception of more or less isolated districts where the strengthening of the system has not yet been fully carried out, there are generally good service conditions. The company's service in the Los Banos district has been subject to many interruptions and the company should take immediate steps to improve conditions in this district.

Complaints were heard regarding "reversal of power" and it appears in one instance considerable damage resulted to a consumer's installation from this cause. Two apparent causes for this trouble have existed: first, failure of one of the phases of a given circuit with the resultant "reversal of power" to certain types of pumps remaining upon the system; second, the incorrect connecting of distribution lines. The latter can be eliminated by more careful supervision of

construction by the company. San Joaquin Company advises that it is making a special study of this trouble and it is important that this be carried on as rapidly as possible in order that similar difficulties may not recur.

It appears from the engineers' investigation that up to the present time the coordination between the head office of the company and its local district agents has not been conducive to the greatest efficiency or to a proper understanding by the company's local district managers of the rules, regulations and practices. A more efficient method of supervision of the district offices by the head office of the company should be carried out and special care taken to see that the company follows uniform practices and rules. Special attention should be given to educating the local district agents and representatives in the rates and rules of the company.

San Joaquin Company should establish the practice of holding meetings monthly at which its district managers who carry on the business of the company with the public will meet and where they may be acquainted and kept in constant touch with the proper application of rules and practices of the company and the policies affecting public relations.

It appears that practically all extensions to agricultural service in which the revenue to be derived was not sufficient to justify the company in making free extensions have been made by requiring the applicants for service to guarantee for a period of three years an annual gross revenue equal to one-third of the cost of the extension. Although this was an optional rule which an applicant might select and which might prove advantageous under certain conditions, yet the extension rule proper, in which consumers advance to the company a certain portion of the cost of the extension, to be refunded on the basis of a percentage of the monthly bills for service, was in only a few instances explained or offered to the consumer. As a result many consumers have not received the advantage of the more favorable rule. San Joaquin Company should give each consumer who has guaranteed a definite annual revenue or who has made an advance in order to obtain service the option of advancing an amount equal to the difference between the cost of the extension and three times the estimated annual revenue or guaranteeing in three years a total revenue equal to the cost of the extension, as provided in the present rules.

It also appears that consumers have been required to sign contracts guaranteeing amounts based upon estimated costs and that these guarantees have not been in all cases modified to conform with the actual costs. San Joaquin Company should submit to each such contract holder a statement of the actual cost of the extension and

give him the option of adjusting his contract to the basis of the actual cost.

There has been considerable complaint, which appears to be well founded, to the effect that certain consumers have not been supplied with copies of contracts entered into with the company relative to advances or guarantees for the extension of service, and also, that itemized estimates of cost requested by consumers have not always been supplied. San Joaquin Company should supply each consumer who has not already received one, a copy of his extension contract, and each new consumer should be furnished with a copy whether requested or not, and with each new extension in which any advance or guarantee is necessary to obtain service an itemized statement of the cost of the extension should be submitted to the consumer upon the completion of the work.

In the latter part of July, 1921, San Joaquin Company was requested to put in effect an optional low load factor agricultural rate, known as Schedule No. 16, which was filed and made retroactive to April 1, 1921. It was understood that the company should notify each consumer of this new rate and that this schedule could be selected by any agricultural consumer, in which case his past bills would be adjusted. Investigation by the Commission's engineers shows that in certain instances the consumers have had difficulty in obtaining this schedule and that the company has not fully explained its use and application. The San Joaquin Company should determine those agricultural consumers who have not been operating on Schedule No. 16 and who would have been advantageously affected by this schedule during the past season and refund to those consumers the difference between the amount actually paid and the amount which would have been paid on the basis of Schedule No. 16.

Capital.

The investment in operative electric properties of the San Joaquin Company was reported by G. S. Jacobs, engineer for the company, at \$31,357,868 as of December 31, 1921. This amount represented the properties exclusive of \$590,453 expenditures on future developments. The operative investment was determined, according to the testimony, upon an analysis of the company's books from December 31, 1914, to September 30, 1921, bringing the previous audit to date and adding to the total the sum of \$150,000 for miscellaneous additions and betterments estimated for the last three months of 1921. In the company's Exhibit No. 35, filed at the end of the year, the amount as of December 31, 1921, is set forth at \$31,352,971.14. This represents the physical or tangible property plus the actual cost of organization and franchises.

Thos. G. Hughes, special accountant for the Railroad Commission, made a careful audit of the company's books, bringing his previous audit made in connection with Application No. 1666 up to August 31, 1921, and found the book investment in the electric properties as follows:

Expenditure in electric properties to December 31, 1915, including	
work in progress	\$9,667,911 25
Less work in progress December 31, 1915	386,806 48
Completed work December 31, 1915	\$9,281,104 77
Expenditures from January 1, 1916 to August 31, 1921	21,821,488 42
Total electric properties as of August 31, 1921	\$31,102,593 19

Adding to Mr. Hughes' total \$200,000 for expenditures at the rate of \$50,000 per month for the last four months of 1921 brings the total to \$31,302,593.19, or an amount of practically \$55,000 less than that reported by Mr. Jacobs. Table No. 3 sets forth the capital based upon the rate base findings in this Commission's Decision No. 3241, dated April 6, 1916, plus additions and betterments by years to December 31, 1921. The result of \$31,217,842.74 as of December 31, 1921, is in close comparison with the present investment.

Nearly \$12,000,000 of the total of approximately \$20,000,000 expended in additions and betterments from 1915 to December 31, 1921, represents major construction units, notably the Kerekhoff development, the Kern Canyon enlargement, the Bakersfield steam plant addition, the Midway steam plant and certain main transmission lines and substations. The expenditure in these major items is listed in applicant's Exhibit No. 18 as follows:

San Joaquin Light and Power Corporation—Major Construction Expenditures	
Power Developments:	
Kerekhoff power development	\$5,691,952 69
Kern Canyon power development	1,979,895 96
Bakersfield steam plant addition	982,410 90
Midway steam plant	1,559,800 47
	\$10,214,060 02
Substations:	
Sanger 110 kilovolt substation	\$137,333 49
Corcoran 110 kilovolt substation	141,786 19
Semitropic 100 kilovolt substation	153,356 75
Merced 110 kilovolt substation	82,283 42
	\$514,759 85
Transmission Lines:	
Kerekhoff-Corcoran 110 kilovolt	\$261,831 90
Corcoran-Midway 110 kilovolt	227,251 30
Kerekhoff-Merced 110 kilovolt	361,980 30
Merced-Newman 66 kilovolt	127,136 70
	\$978,200 20
	\$11,707,020 16

TABLE NO. 3.
Commission's Determination of Valuation of Electric Properties, December 31, 1915,
Plus Net Additions and Betterments to December 31, 1921.

	Original valuation by C. R. C. as of December 31, 1915	Additions and betterments, 1916	Valuation as of December 31, 1916	Additions and betterments, 1917	Valuation as of December 31, 1917	Additions and betterments, 1918
Intangible -----	\$86,071 00		\$86,071 00		\$86,071 00	
Production -----	4,265,463 00		4,459,197 56		4,819,703 89	
Transmission* -----	1,490,188 00	31,693 71	1,524,791 71	\$390,596 33	1,702,499 89	\$431,516 74
Substation -----	517,410 00	38,293 84	553,703 84	85,789 88	641,493 72	61,149 15
Distribution -----	2,476,095 00	448,644 38	2,924,739 38	968,145 13	3,892,884 51	186,305 36
General -----	287,404 00	37,562 25	324,966 25	16,716 03	341,622 28	705,849 10
Totals -----	\$9,152,631 00	\$722,778 74	\$9,875,409 74	\$1,608,865 55	\$11,484,275 29	\$1,401,576 75

*Includes telephone capital chargeable to electric department.

	Valuation as of December 31, 1918, C. R. C. Dec. 7365	Additions and betterments, 1919	Valuation as of December 31, 1919	Additions and betterments, 1920	Valuation as of December 31, 1920	Additions and betterments, 1921	Valuation as of December 31, 1921
Intangible -----	\$86,071 00		\$86,071 00		\$86,071 00		\$86,568 00
Lands undistributed -----		\$24,842 00	24,842 00		61,912 00	\$12,527 00	24,740 00
Production -----	5,251,220 63	468,711 00	5,719,931 63	6,861,724 59	12,581,656 22	3,308,894 47	86,652 00
Transmission* -----	2,591,448 12	32,771 00	2,624,219 12	1,375,643 72	3,999,862 84	772,387 42	15,890,550 69
Distribution -----	4,598,733 61	1,105,692 00	5,704,425 61	907,648 00	6,612,073 61	2,530,112 50	4,772,250 26
General -----	358,378 68	91,837 00	450,215 68	177,138 00	627,353 68	600,252 00	9,142,186 11
Totals -----	\$12,885,852 04	\$1,723,853 00	\$14,609,705 04	\$9,359,224 31	\$23,968,929 35	\$7,248,913 39	\$31,217,842 74

*Includes substation capital.

Practically half of the additions and betterments are represented in these four power plants and the four transmission lines and substations. A detailed investigation was made in connection with Application No. 1666, Decision No. 3241, wherein the reasonable cost of the property was found to be practically in conformity with or equal to the investment at that time. In view of these facts, it was concluded by the Commission and its engineers that considerable time and a great deal of expense could be saved by checking the reasonableness of these main expenditures and the expenditures in additions and betterments to distribution property, rather than by making a complete inventory.

San Joaquin Company has introduced, by its Engineer, F. Emerson Hoar, an estimate of the depreciated reproduction cost, or "present value," of the electric properties of the San Joaquin Company. This estimate sets forth a total for reproduction cost depreciated or so called "present value" of \$38,357,154 as of December 31, 1921. There is included in the total, intangible capital to the amount of \$3,973,000. It appears that the valuation of tangible properties is based upon only a general determination. The evidence indicates that the investment by years has been increased or decreased by factor ratios representing the approximate difference in unit costs of construction between any given year and the year 1921. It does not appear that Mr. Hoar has given full consideration, especially in the instance of hydro-electric plants, to the development in the art of construction, quite fully testified to by Rex C. Starr, who was in charge of the construction of the Kerekhoff development. As regards the earlier hydro-electric plants, the application of a price ratio would result in only a hypothetical figure which would not closely represent the probable reproduction cost as of the later date.

Relative to intangible items, Mr. Hoar has estimated the cost to reproduce the business of the company on the basis of the estimated deficit which Mr. Jacobs computed in applicant's Exhibit No. 8 below a return equal to the cost of money plus $1\frac{1}{2}$ per cent.

I can not accept the conclusion that the cost to reproduce a given amount of business can be computed simply by taking the deficit below a full return upon the investment in the past six years of more or less abnormal business, particularly as these six years can not properly be considered as being within the reasonable development period for this company.

I am also not convinced that the estimate of water right values submitted by Mr. Hoar for the company is correct, or that any such theory of computing water right values can be applied to a business under sound public regulation, with fairness either to the company or

to the consumers. In general, it is a method of capitalizing the supposed advantages of existing water rights over other actual or hypothetical sources of power assumed to be comparable. The method has the disadvantage that it can produce almost any result, from the values submitted by Mr. Hoar down to a great deal less than nothing, according to the hypotheses assumed. I have failed to find in the entire calculation any constant figure sufficiently fixed to justify computing anything else from it. It is also to be pointed out that in applying his theory to this company, Mr. Hoar has used the average cost and output of all the plants, including certain of the most efficient plants, as to which the company is precluded by agreement with the federal government from claiming any water right value. So, if any water right value does exist, it would have to be computed from the remaining plants, which are on an average more expensive, and the result, even by Mr. Hoar's method, would be greatly to reduce the assumed water right values.

This Commission, in its Decision No. 3421, went at great length into the question of the water right value of the then existing plants of San Joaquin Company, and came to the final conclusion, as set forth on page 603 (Opinions and Orders of the Railroad Commission of the State of California, Vol. 9) as follows:

"It is, of course, elemental that if a utility claims a value for water rights, it must sustain the burden of demonstrating such value. For the reason that the San Joaquin Corporation has not proved any value to its water rights in these proceedings, no allowance is being made herein for water right values in excess of the moneys actually expended by the San Joaquin Corporation and its predecessors in connection therewith. All rentals and other payments in connection with the water rights of the San Joaquin Corporation are being allowed as operating expenses."

As already stated, applicant has also introduced, through Mr. Hoar, an estimate of the "present value" or depreciated reproduction cost of its electric properties. It apparently does not, however, request that its rates be now fixed on this value, or upon present value as calculated by any method. It requests, on page 6 of its brief:

"We hope that the Commission can see its way to include in the present rate base the entire amount of the capital expenditures heretofore made and contemplated to be made during the current year.

"The course which should be pursued, we think, is that followed in Decision No. 5449 and in Decision No. 9864, in the Telephone Case."

I can not avoid the conclusion that any attempt to substitute "present value," or reproduction cost new, depreciated, for the methods of fixing the rate base heretofore followed by the Commission, would result finally in disaster to the companies themselves. It would have to be followed in periods of declining as well as of rising costs, and this would be particularly calamitous to a company like the San

Joaquin, which has been compelled by its obligations to its consumers to make very large investments during a period of high prices.

A company situated as this one is has no choice as to the making of these investments. A private, unregulated, competitive non-utility could choose not to take the risk of expanding during a period when future shrinkages of investment values might wipe out present profits, but a public utility like the San Joaquin Company, serving under regulation in a territory where it has practically a monopoly, in which the people must be served by it or not at all, has a very different obligation. It must make extensions and improvements, and the San Joaquin Company did make them on a very large scale, even during a period of high prices, when necessary to meet an imperative public need. In a hydro-electric utility the proportion of investment to annual revenue is very large—in this case, five to one. It is therefore impossible for it to amortize higher costs out of earnings in any brief time. Rates must therefore be reasonably stabilized, and this can not be done if the rate base is to fluctuate with the price levels of every year. At least 75 per cent of the money for such improvements is obtained from bonds, and if the security and earnings behind these bonds were to fluctuate with the market prices of labor and materials comparable to those which have already gone into fixed investment, the result of the application of this "present value" theory on a falling market would be disastrous. This is especially true of the San Joaquin Company, which has expended from \$15,000,000 to \$20,000,000 during the period of high prices to meet the needs of the public dependent on it. The company is prevented, by the system of regulation, from earning the speculative profits enjoyed by unregulated private businesses during such times. It ought not to be compelled, by a false theory of valuation applied to its obligatory investments in public service, to take a speculative risk on its investments from which unregulated businesses may exempt themselves. To the extent that its expenditures have been reasonable and wisely made, considering the conditions existing, it is entitled from the public, if reasonable rates for the service permit, to compensation for its expenditure, in the form either of a continuing return or of a chance to amortize a part of the investment during periods of prosperity.

On the other hand, if the "present value" theory can not safely or soundly be applied to high-cost improvements during a subsequent period of declining costs, it can also not be applied in the reverse conditions to properties constructed during low-cost periods and now still in the public service at a time when it would cost more to reproduce them. The consumers are entitled to the advantages of stabiliza-

tion in the one case, just as the company is entitled to its safety in the other.

It happens that at the moment the "present value" theory would result in a valuation advantageous to the company and unattractive to the consumers. There is therefore a tendency on the part of utility companies to favor and of consumers to oppose it. The method of valuation followed by the Commission results at the present time in lower rates. But the time is bound to come, at least in some utilities, when the reverse is the case. I am convinced, and I believe the Commission is justified in continuing it as a fixed policy, that the more stable method of valuation hitherto followed by the Commission is sound and just in both instances, and ought not to be changed, either against the consumers on a rising market or against the companies on a falling market. The sound basis is to take reasonable costs as of the date of construction, regardless of whether the cost to reproduce the same properties now would be higher or lower.

The question which is of special importance, therefore, is whether the investment in plants made by the San Joaquin Company represents reasonable investment or costs under the conditions of construction, and further, whether the plants were constructed with reasonable foresight and can be classified as operative for the year 1922.

The testimony of both Rex C. Starr, who was in charge of the construction of the Kerckhoff development, and Assistant Engineer R. M. Vaughan of the Railroad Commission, indicates fully that the investment as reported in this property of \$5,691,952.69 is the reasonable cost of the project as it existed on December 31, 1921. The following table sets forth a segregation of the cost of this plant by general accounts:

TABLE NO. 4.

San Joaquin Light and Power Corporation—Cost of Kerckhoff Power Development as of December 31, 1921.

Dams and reservoirs	\$750,575 52
Water conduits	2,706,729 05
Penstocks	516,848 47
Power plant buildings	367,964 75
Dwellings, stables, etc.	2,211 22
Pumps for water wells	12,800 02
Water wheels and turbines	401,411 54
Generators and exciters-hydraulic	309,330 04
Switchboards and other hydraulic power plant equipment	116,581 40
Roads, trestles and bridges	148,721 74
Miscellaneous production equipment	87,105 06
Stations transformers	150,928 91
Switchboards and other substation equipment	50,583 33
Poles and fixtures	12,006 68
Overhead system	16,197 23
Line transfers and devices	6,877 33
Subtotal electric plant	\$5,663,031 89

TABLE No. 4—Continued.

Lands devoted to production operations-----	\$9,812 85
Rights and franchises -----	1,995 43
General shop equipment and shop tools -----	5,308 58
Telephone lines -----	11,426 19
Telephone instruments and equipment -----	377 75
Total -----	\$5,691,952 69

It is urged by F. S. Brittain, counsel for the Farm Bureau Federation, that in view of the testimony of Mr. Starr that an additional unit could be installed in the plant, the plant has therefore been constructed for the future and that approximately one-quarter of the investment should be considered as non-operative.

Analysis of the evidence indicates that the only portion of the development which might be partly unnecessary for existing output is the tunnel and a small portion of the building. It is very apparent from a consideration of the development, however, that the additional unit would not increase the output of the plant except during a period of approximately 100 days in the year and would not be as valuable in proportion as the existing equipment, and, further, that the cost of constructing the tunnel larger than that necessary to transport the water usable in the present units would be but slightly in excess of the cost of a smaller tunnel. The conditions existing in this instance do not appear to justify any reduction in capital on account of the possibility of an additional unit later being installed.

It is further urged by counsel for the Farm Bureau Federation that the investment in the Kerckhoff plant should be further reduced in view of the fact that it was constructed during a period of high prices and under conditions of relative inefficiency in labor. It is suggested that \$350,000 further be deducted.

The evidence indicates, if anything, that the Kerckhoff development was constructed with more than reasonable efficiency, considering the conditions existing. It must be borne in mind that during 1917 and 1918 San Joaquin Company, as well as other electric utilities, was prevented by governmental restrictions from carrying on the necessary development to meet the very rapidly growing demands on its system. It was absolutely essential from the standpoint of public service that construction work be carried on at a rapid rate immediately upon the cessation of war activities. San Joaquin Company is to be commended for the way in which it carried through to completion the construction of the Kerckhoff development and the enlargement of the Bakersfield steam plant, as this action eliminated a probable shortage of power. To insist at this time that it should absorb a considerable portion of the investment which it made to meet the demands of the public, especially in view of the record of the earnings of this company, I can not consider as just or reasonable.

The expenditures, as reported for the Kern Canyon enlargement, are \$1,979,895.96. This represents the additional expenditures, from which must be deducted the costs of the building and equipment and other structures of the original Kern Canyon plant abandoned upon completion of the present development and enlargement, together with construction equipment sold and estimated to be sold. The final net addition to capital when all credits are made will bring the total to approximately \$1,700,000.

The following Table No. 5 sets forth the expenditures on this development which are subject to reduction for write-off of old plant and construction equipment:

TABLE NO. 5.

Kern Canyon Enlargement Expenditures to December 31, 1921.

Dams and reservoirs -----	\$130,701	25
Water conduits -----	997,142	73
Penstocks -----	127,369	17
Power plant building -----	203,125	88
Waterwheels and turbines -----	201,906	97
Generators and excitors -----	166,003	85
Switchboards and other hydro-power plant equipment -----	75,456	63
Poles and fixtures -----	1,681	20
Overhead system -----	319	93
Station transformers -----	73,496	12
Switchboards and other station equipment -----	53	06
Subtotal electric plant -----	\$1,977,436	79
Telephone lines -----	2,459	17
Total Kern Canyon -----	\$1,979,895	96

There existed, up to the first part of 1921, a hydro-electric plant known as the Kern Canyon plant, of 4200 kilovolt ampere capacity. The above costs covered the enlargement of the tunnel, intake dam, and construction of a new power plant, increasing the capacity to 10,600 kilovolt amperes, with tunnel capacity available for a development of 15,000 kilowatts when such might become advisable. This plant was constructed after the Kerckhoff plant had been completed and an additional unit in the Bakersfield steam plant had been installed, and at the same time that the Midway steam plant was being constructed.

A study of the load characteristics of this plant shows that its output is maximum during the spring months; that on the average the output capacity of the plant has been increased approximately 6000 kilowatts during the flood season of the year, but that during the period of August, September and October, which are the critical months or periods of greatest steam plant requirement, its output capacity has not been increased more than approximately 2000 kilowatts, and that during periods of dry years practically no benefit is obtained in either additional kilowatt hours or useful kilowatt

capacity during those months. The output of the enlargement of the plant is highest at practically the same time that the output of the Kerekhoff plant and other stream flow plants of the company is greatest, and it appears from an analysis by the Commission's engineers that during the year 1922, based on average water power conditions, less than 15,000,000 kilowatt hours additional will be obtained that can be beneficially used by the company in the service herein considered. Because this enlargement came after the Kerekhoff development, and further, because critical dry year conditions still require a steam plant capacity but very slightly less than would be required had this plant not been built, I must conclude that the total investment in this addition cannot yet be included in the rate base and that only a part of it can be allowed for 1922.

The additional cost of producing from existing steam plants the kilowatt hours which would be useful from this enlargement during 1922, on the basis of an average year, is practically \$50,000. It would appear, therefore, that the cost of this additional plant which might be reasonably included for the year 1922 as a part of the rate base is \$500,000, or the capitalized cost of this energy.

An analysis of the evidence and testimony would indicate that the reported investment in the Bakersfield steam plant enlargement and the Midway steam plant are reasonable under the conditions of their installation, and that the addition of these plants does not result in an over-installation when consideration is given to the amount of sales to the Pacific Gas and Electric Company and Southern California Edison Company, which will readily cover the operations and fixed charges on a considerable portion of the plants.

San Joaquin Light and Power Corporation supplies power to the Midland Counties Public Service Corporation mainly at Henrietta substation near Coalinga, from which point power is transmitted by Midland Counties Company through San Luis Obispo and Santa Barbara counties and distributed in those districts. In 1916 San Joaquin Company installed a steam plant at Betteravia, Santa Barbara County, for the service of Midland Counties Public Service Corporation in order to make the service on that company's system more dependable. This Commission, in its Decision No. 7305 in Application No. 4064, dated March 23, 1920, found that it was reasonable to charge Midland Counties Company the total cost of operating the Betteravia steam plant, including interest, depreciation, maintenance and operating expenses except fuel expense in addition to the cost of electric energy delivered to it by San Joaquin Company at Henrietta substation and at Betteravia steam plant, the two points of main delivery. Presiding Commissioner Devlin in discussing this matter

(Opinions and Orders of the Railroad Commission of the State of California, Vol. 17, page 943) stated as follows:

I agree in part with protestants relative to the Betteravia steam plant. This plant is largely used for the benefit of the Midland Counties Public Service Corporation service and its consumers, the plant being located at the end of that utility's transmission line. It is partly a standby plant for the San Joaquin Light and Power Corporation.

The fixed charges and operating expenses, other than fuel cost at this plant, should be paid by the Midland Counties Public Service Corporation in addition to the cost of power purchased.

Subsequent to this decision and upon supplemental application, the Commission modified its decision to the extent of not requiring the charge and payment to be made pending final determination in this proceeding.

San Joaquin Company urges at this time that the Midland Counties Company, which is the company's largest consumer, is entitled to the same character of service as rendered to other patrons of the company, and that in view of the history surrounding the construction of the Betteravia plant it should be considered as a part of the general system and not specifically charged to the Midland Counties Company.

The plant is located at the end of a transmission line of the Midland Counties Company. It appears that Midland Counties Company receives at Henrietta substation the same quality of service as any other wholesale consumer, and it does not appear that the San Joaquin Company's obligation extends to the installation of a standby plant at the end of the Midland Counties Company's transmission line. It would appear to me as logical for the Southern California Edison Company to construct and maintain the steam plant of the San Diego Consolidated Gas and Electric Company at San Diego, or for the Pacific Gas and Electric Company to install or own, maintain, and operate the standby plants of the Coast Valleys Gas and Electric Company at Monterey, or Western States Gas and Electric Company at Eureka as for the San Joaquin Company to absorb the cost of the Betteravia steam plant. Some benefit will accrue to the San Joaquin Company to the extent that it may be temporarily relieved of a part of the load of the Midland Counties Company in an emergency by the operation of the plant. This plant should not, however, be charged to the general service of the San Joaquin Company. If that company desires to assist a somewhat related utility through its development period by paying the operating expenses and fixed charges of this plant out of its own reasonable return, I see no reason for refusing to allow such action. However, in determining the revenue of this company in connection with this rate proceeding, the cost, including interest, depreciation, maintenance and operation, other than fuel, will be considered as a revenue to be obtained.

San Joaquin Company still maintains a steam plant in Fresno, with a capacity of 750 kilowatts. In 1916, Presiding Commissioner Thelen, in Decision No. 3241, dated April 6, 1916 (Opinions and Orders of the Railroad Commission of the State of California, Vol. 9, page 557), stated as follows:

In addition to the production plants above referred to, San Joaquin Corporation maintains at Fresno, in the old steam plant building, a 750-horsepower horizontal cross-compound engine, belt connected through an arrangement of clutches between two motor generator sets. Ample boiler capacity is maintained for this unit and under certain conditions it could be considered as a reserve unit in so far as the local street railway load is concerned, although I question the reasonableness and necessity of any such standby, considering the large amount of money invested in duplicate and interconnected production and transmission facilities.

This is practically the only small steam plant existing on the larger electric utilities' systems. All other utilities have abandoned such plants under conditions similar to these. The only value which this plant might have at the present time would be a standby either for railway service or the water system of Fresno. I am convinced that it is time that this plant be abandoned or written off as a useful part of the equipment for the general service. If either the Fresno City Water Company or the Fresno Traction Company insists upon it being maintained they may negotiate with the San Joaquin Company to compensate it for such additional standby. The cost of the equipment which is of no use to the general service is approximately \$65,000. This amount will be deducted from the operative investment.

Relative to distribution and transmission costs, the evidence indicates that, due to conditions existing during 1919 and 1920, and to the large amount of work which had to be carried on, labor efficiency was considerably below normal, affecting the cost of construction very materially according to the testimony of the company's general manager. These conditions which were especially noticeable in the instance of the line construction, carried on during the years 1918, 1919 and 1920 were common in all classes of business during these years, were everywhere experienced, and may be said to be normal for that period.

The following tables No. 6 and No. 7, set forth the cost of the main transmission lines and substations constructed during the past three years.

TABLE NO. 6.
Expenditures on Transmission Lines—San Joaquin Light and Power Corporation,
December 31, 1921.

	Kerckhoff- Corcoran	Corcoran- Midway	Kerckhoff- Merced
Rights and franchises.....	\$5,558 24	\$1,637 52	\$4,618 97
Poles and fixtures.....	103,489 70	64,716 73	128,215 76
Overhead system.....	152,784 05	164,394 97	214,944 55
Transmission switchboards.....			12,999 60
Roads, trestles, bridges.....			2,030 00
	\$261,831 99	\$230,749 22	\$352,808 88

TABLE NO. 7.
Expenditures on Special Substations to December 31, 1921.

Account	Sanger	Corcoran	Merced	Semittropic
Land	\$2,500 00	\$1,050 00	\$1,500 00	\$1,000 00
Poles and fixtures.....		4,451 25		
Overhead system		5,618 50		
Line switches and devices.....		329 38		
Cottages	6,761 75	6,667 21	5,852 85	7,604 98
Water wells.....	273 38	268 35	231 20	297 98
Pumps for water wells.....	2,214 08	2,180 34	1,878 75	2,515 20
Station transformers.....	49,312 01	45,411 68	41,693 73	55,331 51
Transmission switchboards.....	51,861 09	69,863 15	45,117 70	60,694 41
Substation buildings.....	12,010 70	12,415 30	10,456 22	13,807 92
Distribution switchboards.....	9,985 90	9,880 94	8,232 41	11,790 13
Telephone lines.....		663 37		
Telephone equipment.....	477 00	463 75	421 09	539 94
Totals.....	\$135,488 91	\$159,263 22	\$115,383 95	\$153,582 07

The Kerekhoff-Merced line was rush work to complete the interconnection with the Pacific Gas and Electric Company. Largely, on this account, the cost of this line was considerably in excess of other lines. The excess cost of this line, due to rush work, should be written off as chargeable to the special contract with the Pacific Gas and Electric Company. Ten per cent of the cost of this line will be deducted from the rate base for 1922 on this account.

It appears from the testimony of Mr. Hughes that applicant has included in its overhead for construction purposes item for damages covering a damage suit estimated at approximately \$50,000, representing award for property damaged by failure of a transmission line. Courts and commissions have generally held that a cost or expense incurred as a result of damages awarded represent payments due to negligence and it would not appear that such a charge should be borne by the consumers either through a return upon capital or operating expenses.

A reasonable allowance for materials and supplies chargeable to operation as distinguished from construction would appear to be approximately 25 per cent of the average materials and supplies account carried by the company. Testimony shows that the practice of the company is to charge interest upon three-quarters of materials and supplies to interest during construction, this being based upon an analysis of the relative amount of materials and supplies used for construction and for operation and maintenance. A reasonable allowance for this item is \$400,000. A reasonable allowance for working cash capital based upon the method of determination followed by this

Commission would appear to be the sum of \$300,000, which is equal to two months' average operation expenses, excluding taxes.

San Joaquin Company urges in its brief that the Commission include the entire expenditures in additional property for the year 1922 as a portion of the rate base, while in its Exhibit No. 14 revised, it estimates a total electric department capital for 1922 equivalent to the investment as of December 31, 1921, plus one-half the additions and betterments for the year plus materials and supplies and working cash capital allowance. Attorney for Farm Bureau Federation, on the other hand, contends that no allowance should be made for additions and betterments to property during the year 1922, the proper rate base being in his opinion based upon the capital as of the first of the year.

Neither of the above contentions appears to be reasonable. The company is making extensions from day to day as required by applicants for service and is improving its system to better service conditions. During the year, it will expend in normal additions and betterments from \$2,000,000 to \$3,000,000 at a fairly uniform rate. These expenditures will be operative on the average for practically half of the time. A large portion of the money for capital expenditures of the company comes from bonds or stock and the interest or dividend rate on which commences from the date of issuance, and it seems proper that the company is entitled to a return upon the money reasonably invested as soon as it becomes operative.

Applicant has included in its estimate of additions and betterments the amount of \$400,000, representing the estimated cost of an office building. The evidence shows that the building will not be in use during the year 1922 and it does not seem fair to include the cost of it for the year 1922. In excluding this from the rate base for 1922, it is not to be concluded that it should not be constructed. San Joaquin Company has been hampered for several years by insufficient quarters. The present building is not adequate and it is important that the company construct or lease a sufficiently large building adequately to house its employees. Action on this should not be delayed further, and it is without question that upon completion and occupation of the building greater efficiency will result in the company's operating force. To delay the construction of this building would be unfair not only to the company and its employees, but to the company's consumers; for the best service can not be given under present conditions. Although this building will not materially reduce operating expenses, as the rental of the present building is relatively small, I believe that in view of the growing business of the company and the tendency to reduce costs, earnings will be sufficient to cover the return upon the additional investment when it becomes operative.

It is suggested by Attorney for Farm Bureau Federation that San Joaquin Light and Power Corporation has received during the past an excessive and exorbitant return and that consideration should be given to a possible reduction in the rate base of the company on account of the investments of said exorbitant earnings in the property. An analysis of the records of the San Joaquin Company from 1916 to date covering the period during which the rates of the company have been fixed by the Commission shows quite a wide variation in the annual rate of return received. Table No. 8 sets forth the rate base for each of the years as determined by adding to the fair value of the property for rate-making purposes, found in Decision No. 3241, the average additions and betterments for each year. The actual operating revenue is set forth, plus the rental for 1920 and 1921 chargeable to the Midland Counties Public Service Corporation for the Betteravia Steam Plant. Operating expenses are listed as shown by the company's records, and the depreciation allowance found to be reasonable in the Commission's various decisions is included. State and county taxes are included as paid up to December 31, 1918, and as accrued thereafter. Federal income tax has been excluded. It is to be noted that the earnings of the company during this period have varied between wide limits, due largely to the widely varying economic conditions existing. The earnings for the years 1920 and 1921 considered separately are in excess of a fair return, but when the entire period is considered it is to be noted that the average rate of return is 8.29. I can not agree with the contention of the Attorney for Farm Bureau Federation that the company has received more than a reasonable return over the entire six year period.

From analysis of the evidence herein, I find that the following represents a reasonable rate base for the electric properties of the San Joaquin Light and Power Corporation for the year 1922:

TABLE NO. 8.
Earning Expenses and Returns of San Joaquin Light and Power Corporation for 1916 to 1921.

	1916	1917	1918	1919	1920	1921
Rate base.....	\$9,982,377 01	\$11,237,302 16	\$12,480,435 63	\$14,572,778 54	\$19,312,628 18	\$28,580,086 25
<i>Revenue:</i>						
Electric sales.....	\$1,580,951 07	\$1,776,261 62	\$2,326,928 20	\$2,985,244 47	\$3,933,411 16	\$5,102,107 00
Interest on Kerkhoff transmission line.....						38,940 00
Operation of Betteravia steam plant.....					59,831 00	46,410 00
Totals.....	\$1,580,951 07	\$1,776,261 62	\$2,326,928 20	\$2,985,244 47	\$3,993,242 16	\$5,187,457 00
<i>Operating expenses:</i>						
Production:						
Fuel oil and gas.....	\$21,985 65	\$63,725 37	\$418,286 72	\$147,102 84	\$399,185 00	\$301,470 18
Purchased energy.....		64 88	103,174 55	598,000 00	227,290 19	8,265 24
Other expenses.....	57,553 88	77,045 07	115,870 64	177,219 48	230,775 19	320,086 14
Totals.....	\$79,539 53	\$140,838 32	\$637,331 71	\$1,220,322 32	\$857,250 38	\$629,821 56
Transmission.....	34,680 57	33,213 10	33,100 90	36,350 00	42,443 71	64,856 66
Distribution.....	109,273 69	120,808 14	155,964 26	215,725 00	276,937 51	387,153 02
Commercial.....	85,632 91	103,657 56	106,376 31	118,350 00	157,355 52	204,266 95
General and miscellaneous.....	148,964 07	180,697 55	207,400 52	227,050 00	306,085 10	502,617 39
Taxes.....	88,091 52	99,608 53	125,573 95	135,610 62	163,424 88	302,437 16
Uncollectible bills.....	4,800 66	4,729 07	4,800 00	4,800 00	10,450 00	5,934 00
Totals.....	\$550,982 29	\$683,552 27	\$1,270,547 65	\$1,958,207 94	\$1,813,947 10	\$2,097,126 74
Return for interest and depreciation.....	\$1,009,988 78	\$1,092,709 35	\$1,056,380 55	\$1,007,036 53	\$2,179,295 06	\$3,080,330 26
Depreciation.....	146,641 00	166,453 00	192,300 00	216,000 00	284,000 00	422,522 00
Return for interest.....	\$863,327 78	\$926,256 35	\$864,080 55	\$791,036 53	\$1,895,295 06	\$2,667,808 26
Per cent for interest.....	8.65%	8.24%	6.72%	5.43%	9.81%	9.35%

TABLE NO. 9.

San Joaquin Light and Power Corporation, Electric Department, Rate Base 1922.

Total investment, August 31, 1921 -----	\$31,102,593 00
Additions and betterments, August 31, 1921, to average of 1922 -----	1,617,000 00
Total -----	\$32,719,593 00
Less deductions—Kern Canyon enlargement -----	\$1,200,000 00
Fresno steam plant -----	65,000 00
Damage suits -----	50,000 00
Write-off of Kerckhoff-Merced line -----	36,300 00
Total deduction -----	\$1,351,300 00
Total -----	\$31,368,293 00
Materials and supplies and working cash capital -----	700,000 00
1922 rate base -----	\$32,068,293 00

Fair rate of return.

San Joaquin Company urges that a fair annual rate of return on its investment is the cost of borrowed money plus $1\frac{1}{2}$ per cent. In its brief it points out that the cost of borrowed money invested up to August 31, 1921, was at the rate of 7.329 per cent. On this basis the claimed return to the utility would appear to be 8.829 per cent. San Joaquin Company, however, submitted in the proceedings schedules of rates which, according to its own estimates, would result in a return for the year 1922 of only 7.28 per cent on its estimate of total capital of approximately \$34,600,000. Its position apparently is that the rates which it suggested are as high as they reasonably should be at this time and that the company could not expect to earn the full return it considered reasonable under present conditions of relatively large investment at high prices, present development of the business, and the existing economic depression. Further, that the gross revenue which it estimates should be allowed regardless of the resultant net return which might be computed under any findings of the Commission.

It is urged by the attorney for Farm Bureau Federation that, under present conditions, a fair return is 7 per cent or the legal rate of interest. Counsel suggests possibly an 8 per cent return, but contends it is more than a fair compensation. The suggestion that a 7 per cent return on the operative investment is a fair return for this utility as compensation for its service is obviously too extreme for serious consideration. This Commission would be subject to very just criticism and condemnation were it to consider seriously such a suggestion. The evidence shows that the borrowed money, representing a greater portion of the amount which this company has been required to invest to render service to the territory, has cost on the average in excess of this amount, while the remaining portion being unsecured would be at a higher rate.

The general findings promulgated by this Commission prior to the period of war, when the reasonable cost of bond money was approximately 6 per cent per annum, was that a fair return on electric utility property was 8 per cent. This rate of return was determined in the Antioch rate case, the first important electric decision of this Commission, and in practically all cases decided thereafter and prior to the general increase in cost of money occurring after January 1, 1918. In 1916 the rates of the San Joaquin Company were fixed in Decision No. 3241, Application No. 1666, (Opinions and Orders of the Railroad Commission of the State of California, Vol. 9, page 605). In that decision, Commissioner Thelen, presiding, stated as follows:

Exhibit No. 54 of the San Joaquin Corporation shows that the average annual cost of bond money to the San Joaquin Corporation and its predecessors, with amortization on the straight line basis, has been 6.18 per cent, and that with amortization on the sinking fund basis the annual cost of bond money has been 6.01 per cent. While the cost of money to the San Joaquin Corporation and its predecessors through the sale of bonds has thus been only slightly in excess of 6 per cent, I recommend that in these proceedings, in the present state of development of the business of San Joaquin Corporation, the Commission allow a return of 8 per cent on the fair value of the property. This return is being allowed notwithstanding the fact that extensive transmission and distribution lines have been constructed, apparently for the purpose of holding the territory as against a competitor.

The San Joaquin Corporation is as yet, to a considerable extent, in a development period, and it will be necessary for the corporation to secure large additional sums of money in order to develop the territory served by it. The return herein allowed is, in view of the cost of bond money, a generous return and will be sufficient to induce the necessary additional capital to invest in the business of the San Joaquin Corporation. In my opinion, it is far wiser and more straightforward to ask for a generous return than to try to secure an inflated valuation.

It is to be noted that in that decision a margin of approximately 2 per cent was allowed in excess of the average cost of money from bonds. The evidence in these proceedings indicates that up to August 31, 1921, the moneys obtained by this company through the issuance of bonds and debentures has cost an average of 7.329 per cent. If the amortization of the discount on certain debentures heretofore refunded is eliminated, the average cost is 7.25 per cent. On the same basis as applied in Decision No. 3241 it would appear that San Joaquin Company would be entitled to a return of over 9 per cent. This Commission, however, has not strictly followed this precedent. During the past two years the rate of return found reasonable for electric utilities has been made with a considerably less margin between the reasonable cost of bond money and the fair return owing to various conditions, one of which was that the federal income tax was considered as an operating expense. It appears at this time from a careful study of court decisions and the act providing for this tax that this tax is not to be included in operating expenses.

Were financial conditions that existed at the time of the hearings, to continue, there might be some justification for allowing an 8.5 per

cent return to this company which would be about 1.2 per cent more than the cost of bond money. It is however unfair in a decision of this character to recognize the high interest rate paid on bonds, when as a matter of fact, some of these bonds are now being called for redemption and others should be, if interest rates continue to decline.

Depreciation.

The depreciation annuity which this Commission found reasonable in 1916 was equal to 1.54 per cent of the rate base excluding materials and supplies and working cash capital. The depreciation annuity which has been allowed by the Commission in the various decisions since then has averaged practically the same amount. The depreciation annuity so determined is based upon a 6 per cent sinking fund and represents the estimated amount which, set aside annually with compound interest at 6 per cent, will be sufficient to cover the original cost of the various units of property at the expiration of their probable life.

Applicant, through its engineer, G. S. Jacobs, submitted in Exhibit No. 35 a computation of depreciation annuity totaling \$529,172 for the year 1922. This annuity is at a somewhat higher rate than heretofore found reasonable by this commission in this company's case, considerably shorter lives being used in certain items of equipment. Depreciation allowance should be, in my opinion, as nearly correct as can be estimated. Some consideration must, however, be given to the conditions surrounding the property and the history of the utility, although sound regulation would justify being slightly liberal with depreciation allowance if the same is fully accounted for. It must be remembered in this instance that the San Joaquin Light and Power Corporation has expended approximately \$20,000,000 in the past five years and in view of the present economic condition I believe that no increased rate of annuity should be allowed. If this allowance turns out to be insufficient it may be enlarged when the business is more completely developed. Where depreciation allowance is made, however, the company should fully account for the annuity as well as interest on the reserve. It appears that this utility has not in the past set aside each year the annuity as found reasonable by the Commission, nor has it fully accounted for interest upon the reserve which would have been created.

In this Commission's Decision No. 7305 (Opinions and Orders Railroad Commission, Volume 17, page 949), presiding Commissioner Devlin stated as follows:

San Joaquin Light and Power Corporation, according to its Exhibit No. 10, had, on December 31, 1919, a total depreciation reserve of \$1,711,404 covering all departments. The pro rata of reserve for the electrical department is \$1,585,900. Mr. Kenny computed the total reserve for depreciation based upon his estimated lives, at \$2,405,823.70 as of December 31, 1919. Based upon the life table as used by

the Commission the depreciation reserve to be set aside as of December 31, 1919, should be, on a comparative basis, approximately \$2,000,000.

I desire to point out at this time that in addition to the depreciation annuity of \$270,000 herein allowed, applicant should add to its reserve during the year 1920 the sum of 6 per cent upon the actual reserve of \$1,585,000, or \$95,100, and that as soon as its earnings are sufficient it should set aside, in order that the accrued depreciation will not increase more rapidly than the reserve, 6 per cent on approximately \$2,000,000. The total addition to reserve for the year 1920 should be, therefore, \$365,100, of which \$270,000 should be considered as operating expenses.

Table No. 10 sets forth the accrued depreciation based upon the annuity heretofore found reasonable and interest at 6 per cent upon the reserve commencing with the amount set forth in the company's records as of January 1, 1916, showing that at December 31, 1921, the reserve for electric properties should have been \$2,365,600 as compared with the reserve which the company reports in its Exhibit No. 37 of \$1,930,659. Table No. 11 sets forth the accrued depreciation and the reserve which should reasonably be set up on the company's books based upon the findings of the Commission's Decision No. 7305.

TABLE NO. 10.
Depreciation Reserve—Electric Properties, San Joaquin Light and Power Corporation.

	1916	1917	1918	1919	1920	1921
Balance January 1.....	\$639,838 00	\$795,251 00	\$997,953 00	\$1,294,667 00	\$1,536,155 00	\$1,867,061 00
<i>Additions to reserve:</i>						
Annuity	\$146,641 00	\$166,453 00	\$192,300 00	\$216,000 00	\$284,000 00	\$422,522 00
Interest	38,300 00	47,715 00	59,877 00	77,680 00	93,369 00	112,024 00
Miscellaneous	4,885 00	2,253 00	78,020 00	232 00	4,185 00	2,892 00
Totals	\$189,916 00	\$216,421 00	\$330,197 00	\$293,912 00	\$381,554 00	\$537,438 00
Grand totals.....	\$829,754 00	\$1,011,672 00	\$1,328,150 00	\$1,588,579 00	\$1,917,709 00	\$2,404,499 00
<i>Deductions from reserve:</i>						
Replacements	\$24,503 00	\$13,719 00	\$33,483 00	\$32,424 00	\$70,648 00	\$38,899 00
Balance December 31.....	\$795,251 00	\$997,953 00	\$1,294,667 00	\$1,556,155 00	\$1,867,061 00	\$2,365,600 00

*Reserve as of January 1, 1916, based on Company's Exhibit No. 37, Case 1544.

TABLE NO. 11.

Depreciation Reserve, Electric Properties, San Joaquin Light and Power Corporation.

Reserve as of January 1, 1920, based on C. R. C. Decision No. 7305.

	1920	1921
Balance January 1	\$2,000,000 00	\$2,337,537 00
Additions to reserve:		
Annuity	\$284,000 00	\$422,522 00
Interest	120,000 00	140,252 00
Miscellaneous	4,185 00	2,892 00
Totals	\$408,185 00	\$565,666 00
Grand totals	\$2,408,185 00	\$2,903,203 00
Deductions from reserve:		
Replacements	\$70,648 00	\$38,899 00
Balance December 31	\$2,337,537 00	\$2,864,304 00

San Joaquin Light and Power Corporation is operating several different departments and not maintaining separate depreciation reserves for each department. The company should maintain separate accounts for its depreciation reserve and should transfer from its surplus to depreciation reserve sufficient to bring these reserves to a reasonable amount for each department. This depreciation reserve for electric properties should be immediately increased to at least \$2,365,600 as of December 31, 1921. Hereafter San Joaquin Company should, unless otherwise authorized by the Commission, set aside each year an annuity based upon the percentage set forth herein together with interest at 6 per cent upon accrued depreciation of \$2,864,000 as of January 1, 1922, plus any additions to reserve thereafter. Table No. 12 sets forth the depreciation annuity, in per cent and in dollars, applied to capital as of December 31, 1921.

TABLE NO. 12.

Depreciation Annuity, San Joaquin Light and Power Corporation.

Item	Capital	Depreciation annuity	
		Per cent	Amount
Intangible	\$98,598 00		
Lands, undistributed	86,652 00		
Production	15,890,550 69	.8025	\$127,522 00
Transmission	4,772,250 26	1.792	85,519 00
Distribution	9,142,186 11	2.421	221,332 00
General:			
A. Depreciable	811,437 00	4.131	33,520 00
B. Not depreciable	416,168 68		
Totals	\$31,217,842 74		\$467,893 00

Revenue and expense.

Table No. 13 sets forth the revenue and operating expense of the electric department for the years 1919, 1920 and 1921, together with

TABLE NO. 13.
Earning and Operating Expenses, San Joaquin Light and Power Corporation.

	1919	1920	1921	Estimate by G. S. Jacobs, S. J. E. and P. Corp. No. 13, Revised 1922	Estimate by W. J. Dodge, C. R. C. Ex. No. 16, Revised 1922
Revenue:					
Electric sales.....	\$2,965,244 47	\$3,933,411 16	\$5,102,107 00	\$5,446,909 00	\$5,535,619 00
Interest on Kerckhoff transmission line.....			38,940 00		38,940 00
Operation of Betteravia steam plant.....		59,831 00	46,410 00	**	**
Totals.....	\$2,965,244 47	\$3,993,242 16	\$5,187,457 00	\$5,446,909 00	\$5,574,589 00
Operating expenses:					
Production—					
Fuel oil and gas.....	\$447,102 84	\$839,185 00	\$901,470 18	\$172,011 00	\$169,500 00
Purchased energy.....	596,000 00	227,290 19	8,265 24	10,000 00	
Other expense.....	177,219 48	230,775 19	320,086 14	360,000 00	330,000 00
Totals.....	\$1,220,322 32	\$857,250 38	\$629,821 56	\$542,011 00	\$499,500 00
Transmission.....	36,350 00	42,443 71	64,856 66	85,000 00	76,445 00
Distribution.....	215,725 00	276,987 51	387,193 02	463,000 00	452,697 00
Commercial.....	118,350 00	157,355 52	244,266 95	240,000 00	230,000 00
General and miscellaneous.....	227,050 00	346,085 10	502,617 39	607,000 00	580,000 00
Taxes.....	*155,610 62	*163,424 88	*383,884 00	561,197 00	531,861 00
Uncollectible bills.....	4,800 00	10,450 00	5,934 00	25,000 00	7,000 00
Totals.....	\$1,358,207 94	\$1,813,947 10	\$2,697,126 74	\$2,613,208 00	\$2,357,506 00
Net for interest and depreciation.....	\$1,007,036 53	\$2,179,295 06	\$3,090,330 26	\$2,833,701 00	\$3,217,083 00

**Cost of operation of Betteravia steam plant not included.

*Federal income tax excluded in 1919, 1920 and 1921.

the estimates for the year 1922, based upon existing rates (submitted by Assistant Engineer W. J. Dodge of the Commission and also the estimates submitted by Mr. G. S. Jacobs of the San Joaquin Company). The estimates of revenue submitted by Mr. Jacobs include certain revisions of agricultural rates which would result in an increase over the present. Miscellaneous nonoperating revenue is not included as it is not derived from public utility service and it appears that the segregation of cost by the company eliminates charges applicable to this particular business.

The kilowatt hour sales and revenue for the year as estimated by Assistant Engineer W. J. Dodge both as to regular sales and the sales to foreign corporations appear to be reasonable.

The evidence shows that San Joaquin Light and Power Corporation has entered into a contract under which it will construct an additional steam unit in its Midway Steam Plant and sell to the Southern California Edison Company 80,000,000 kilowatt hours during the ten months commencing August, 1922. This transaction contemplates a special investment by the San Joaquin Company of approximately \$1,200,000 at least a year ahead of the requirements of its own service and I believe it should not be considered in connection with this proceeding as it is largely a separate and distinct service. It is apparent, however, that at the completion of the agreement consideration must be given to what shall be included as the investment or part of a future rate base.

Considerable evidence was introduced relative to the price of natural gas paid by the San Joaquin Company, it being contended by Mr. J. J. Deuel and others that the price of 10 cents per 1000 cubic feet is excessive and that the evidence introduced in Application 4064 relative to this matter had not been fully considered by the Commission. It was contended that a price of 5 cents per 1000 cubic feet, plus the cost of transmitting the gas to the plants of the company was all that should be allowed as the field price was in general that amount and offers had been made to sell gas at that price. The natural gas obtained by the San Joaquin Company is purchased from the Midway Gas Company and through the system formerly owned by the Valley Natural Gas Company and extensions and enlargements thereto. The price of 10 cents per 1000 cubic feet was fixed by this Commission for the Valley Natural Gas Company prior to the sale to the Midway Company and prior to the purchase of any large amounts of gas by the San Joaquin Company. An analysis of the evidence in these proceedings indicates that much of the complaint in this matter has been due to a lack of full information and appreciation of the actual conditions surrounding the delivery of gas to the steam plants of the

San Joaquin Company. The supply of natural gas is more or less uniform, while the demand made by the San Joaquin Company is intermittent. Practically no gas was used by the company during the past two or three months although during the fall period of 1921 a relatively large amount was consumed. It appears that during the year 1922 the amount of gas used to supply the power to the company's own consumers and the wholesale service to Pacific Gas and Electric Company will be relatively small. In view of the intermittent character of the service required I am convinced that the rate of 10 cents per 1000 cubic feet is reasonable to the San Joaquin Company and to the public which it serves.

In determining production expenses both Mr. Jacobs and Mr. Dodge have estimated operations on the basis of a year of average hydro-electric power supply. This basis has been followed in other proceedings before this Commission and appears to be correct when considering definite rates of a stable character. Considerable difference exists in the two estimates of the average power supply, Mr. Jacobs estimating less useful kilowatt hours from hydro plants on the average than that estimated by Mr. Dodge. Additional records and computations were submitted to Mr. Dodge after his first estimates and this additional information has been carefully analyzed and the estimate set forth in the following table of the average useful hydro-electric power supply in kilowatt hours for the year 1922 appears correct. The table also sets forth the total estimated power requirements together with the steam-electric production necessary.

TABLE NO. 14.

C. R. C. Estimate of Steam Requirements for 1922 Based on Water Data for an Average Power Year.

Month	System load, kilowatt hours	Useful hydro power, kilowatt hours	Steam power, kilowatt hours
January -----	28,821,000	21,961,000	6,860,000
February -----	24,169,000	23,669,000	500,000
March -----	26,500,000	26,000,000	500,000
April -----	35,000,000	34,500,000	500,000
May -----	40,000,000	39,500,000	500,000
June -----	42,000,000	40,023,000	1,977,000
July -----	43,600,000	42,463,000	1,137,000
August -----	44,700,000	31,790,000	12,910,000
September -----	35,600,000	23,368,000	12,232,000
October -----	29,600,000	22,776,000	6,824,000
November -----	25,300,000	19,727,000	5,573,000
December -----	25,800,000	21,632,000	4,168,000
Totals -----	401,090,000	347,409,000	53,681,000

It has been strongly urged by the San Joaquin Company that allowance be made in operating expenses for the estimated actuarial cost of a pension system for its employees. This is largely the result of the recommendations of George L. Bell, who made an exhaustive investigation of the company's organization and operations. Various plans were suggested, but the one most recommended would require a permanent annuity of approximately \$120,000 per year. The company has included this amount in its estimate of operating expenses for 1922. If the system were put in operation immediately, the actual out-of-pocket cost the first year would be negligibly small. It is therefore not a matter of large practical importance whether the permanent annuity begin to be set aside coincidently with the inauguration of the system or a year or two later. However, if there is to be any such system, I believe it should be put within a reasonable time on a permanent actuarial basis; otherwise, the costs in the latter years would become prohibitive. The decision whether to inaugurate such a system is, I think, part of the responsibility of management rather than of regulation. The initiative should, therefore, come from the company, which can, if it wishes, establish the system and then justify its cost as a part of operating expenses. This is sounder than a tentative suggestion that if the consumers will agree in advance to pay for it, the company will put it into effect. A pension system should result, among other things, in savings to the company. Neither the savings nor the cost will be great the first year. There will be time, before either becomes large, to consider later how much of the money then to be set aside for the permanent annuity shall be reckoned against these savings and how much, if any, shall be charged directly to consumers in operating expenses. I am heartily in favor of the general principle of pensions, but I do not believe that it is the responsibility of the Commission to put it in operation in this company. As the company has not yet taken any definite steps in the matter, and as, if it did so, the question of an allowance could, without loss or lack of fairness, be taken up afterward, I do not think it necessary to make any allowance in the expense for the year 1922.

The request of the company that an allowance of \$25,000 be made to carry on a magazine is subject to the same comments as above (first) that it should be shared by the company and its consumers as well and, (second) that it is the company's duty to take the initiative in putting such beneficial changes in effect.

The San Joaquin Company's operating expenses have increased quite materially during the past few years due to increases in extent of business and also increases in salaries, wages and in the price of supplies. Without question during the periods 1919, 1920 and 1921 less efficiency existed than during pre-war periods or at the present time.

On the other hand, the company was growing at such a rate that it was, if anything, under-managed and supervised during 1919 and 1920 and an increase in general commercial expense could be expected, even with a tendency to reduction in costs. I can not however agree that the estimates of the company as submitted by Mr. Jacobs are entirely reasonable. This proceeding is for the consideration of rates which it is hoped would be more or less permanent. The conditions existing require the greatest economy and it appears that these estimates do not give due consideration to such factors. It would appear from a full consideration of the evidence that the operating expenses set forth in Table No. 15 represent a reasonable estimate of expenses chargeable to electric operation based upon the year 1922.

San Joaquin Light and Power Corporation in its estimate of 1922 operating expenses sets forth the state tax as $7\frac{1}{2}$ per cent of the gross revenue for 1922. Mr. Dodge in his estimate bases the state tax for 1922 on $7\frac{1}{2}$ per cent of the 1921 revenue. San Joaquin Company in its brief modifies its position to agree with the method followed by Mr. Dodge. It is urged by attorney for Farm Bureau Federation that the state tax to be allowed during any given calendar year should be the money actually paid the state that year which represents the second installment of the tax which becomes due in July of the preceding year and the first installment of tax which becomes due in July of the year in question. The state tax on electric utilities is determined as a percentage of the gross revenue. The tax which becomes a lien upon the company's property on the first Monday of March, 1922, is determined as $7\frac{1}{2}$ per cent of the gross operative revenue for the year 1921, less uncollectible bills. This tax in its entirety is due and payable on the first Monday of July, 1922, and one-half becomes delinquent on the sixth Monday thereafter. The second one-half of this tax does not become delinquent until the first Monday of February, 1923. It appears that an obligation does exist for the year 1922 equivalent to the tax which becomes a lien upon the property for that year, and although the company may delay in the payments of its second installment to as late as February of the following year, the total amount is an obligation on the company and must be paid.

Mr. Brittain, in his brief, sets forth certain tables comparing the payments which would be made in each year with the amounts allowed on this basis, and then concludes that at the close of December 31st there existed a sum of money in excess of the amounts actually paid, and that the utility has been unjustly enriched. It is stated that this money will never be paid. He apparently neglects to consider the fact that within thirty-eight days at the most, from the date at which he ends his computation the entire amount must be paid or become

delinquent. To follow Mr. Brittain's proposal would mean that the utility would first pay its tax and then accrue the amount paid. The Commission does not include in the working capital of the company any allowance to cover taxes paid before they are accrued, as it is contemplated to allow the company to accrue this tax out of earnings prior to the payment thereof. I conclude, therefore, that a reasonable estimate of state tax is an allowance equal to the amount which will become a lien upon the property during the year used in determining the reasonableness of existing rates.

TABLE NO. 15.

**C.R.C. Estimated Earnings, Operating Expense and Return, 1922—San Joaquin
Light and Power Corporation.**

Rate base	\$32,064,893 00
Revenue based on 1921 rates—	
Electric sales	5,535,649 00
Interest on Kerekhoff transmission line	38,940 00
Operation of Betteravia steam plant	47,349 00
Total revenue	\$5,621,938 00
Operating expenses—	
Production	
Fuel oil and gas	\$165,200 00
Other expense	330,000 00
Total	\$495,200 00
Transmission	76,445 00
Distribution	435,752 00
Commercial	217,500 00
General and miscellaneous	560,000 00
Taxes	388,864 00
Uncollectible bills	7,000 00
Total operating expense	\$2,180,761 00
Return for interest and depreciation	\$3,441,177 00
Depreciation	491,300 00
Return for interest	\$2,949,877 00
Per cent return, 9.20.	

Electric rates.

If the rates of this company are to be reduced so that the revenue as estimated will just make available the average return of 8.5 per cent, a reduction of approximately \$230,000 can be made. Conditions are, however, such that it appears advisable from the standpoint of the company and the development of the territory that rates be reduced to a somewhat greater extent although a less return might be earned during the year 1922. The company's system, though not over-developed, has possibilities of reducing costs due to the general tendency to reduce costs of operations and a greater concentration of business on its system. The economic depression prevailing all over the country in the past year and affecting the territory served by San

Joaquin Company, although now showing indications of recovery, justifies a temporary sacrifice of a portion of the full return. The evidence shows that during the past year there was considerable curtailment of use of power by agricultural consumers. This resulted largely from economic conditions and partly from a misunderstanding of the actual application of the schedules. These factors and the suggestion of the company in its own exhibits, that it would accept a lower return than that which it claimed was reasonable, and the further fact that certain refunding will tend to reduce the cost of money, justify the conclusion that the estimated return for this year should be somewhat less than a full fair return.

The existing rates of San Joaquin Company, with the exception of the agricultural rates, were fixed by this Commission in its Decision No. 7305, effective on and after April 1, 1920. The agricultural rates fixed by that decision were modified by the Commission's Decision No. 8820, effective April 1, 1921. The existing lighting rates are similar in form to those in effect on other utilities' systems with the exception of a commercial lighting schedule of the demand and energy form, against which some objection has been received. The industrial power schedules are of the standard block form, while the agricultural power schedule is in the form of a seasonal block schedule with a minimum bill of \$18 per horsepower year for the first ten horsepower and \$15 per horsepower year for all over. This schedule is apparently generally acceptable as to form with the exception of the minimum bill and the proposal that the first block, which includes 1000 kilowatt hours per horsepower per year should be reduced to 500 kilowatt hours per horsepower per year. The present wholesale schedules for substation and transmission delivery and also the oil field schedule, which were made effective to cover power shortage conditions in 1920, are uniform energy rates without consideration being given to load factor of that service.

In these proceedings the company introduced an exhibit setting forth a set of proposed schedules which it considered reasonable and which it recommended be made effective. These schedules in general are the same as existing at the present time, with the exception of the agricultural schedule where the general effect was an increase in rates over the present of approximately 8 per cent, and the elimination of the present commercial lighting schedule, which is of a demand and energy form and to which considerable objection had been raised by certain consumers, due to the demand feature of that schedule.

Suggestions relative to agricultural, oil field and wholesale schedules were submitted by the Commission's engineers. These were suggested as to form only. Modifications were proposed in the wholesale and oil

field schedules as the present rates were temporary rates made effective during the power shortage existing in 1920, and were such as would not be advisable as a permanent form of schedules.

Certain suggestions were made by the Merced County Farm Bureau through its representative, George G. Washington, relative to agricultural schedules. It is urged that there should be no difference in the rates between the small and large size installations; that a considerably lower rate should be made effective than now exists, and that the minimum bill should be reduced materially. It is also suggested that a rate be fixed which will apply to all rural use, whether for agricultural pumping, house lighting, cooking, heating or other purposes, and that a third form of rate be made to cover operation of plants during the development period of the ranches.

Testimony of C. A. Melcher of McFarland is to the effect that some curtailment of use of power occurred in 1921 owing to the fact that consumers did not understand the schedule; that a considerable burden was thrown upon the consumers under the application of the present schedule owing to the relatively large bills received during the first part of the irrigation season, a time when the consumer had the greatest difficulty in paying the bills. It was his opinion that the demand charges for the power should be extended over a longer period, possibly for the entire twelve months of the year, in order that the billing during the early summer months would not be burdensome on consumers.

It is urged by Jay A. Hinman and W. P. Grijalva that the present lighting schedule No. 2 for commercial service is unsatisfactory and should be eliminated, but that the domestic and commercial rate should be reduced so that the consumers now on Schedule No. 2 would not be increased by the change. The complaint relative to Schedule No. 2 is largely due to lack of confidence in the demand meters on the part of the consumers and some failure on the part of these meters to operate accurately. This schedule is lower than the general lighting rates where the lighting load has a fairly high load factor. This optional rate need not be used by the consumer unless he desires. In view of this fact I do not believe it should be eliminated.

Rosenberg Bros., operating packing houses served by San Joaquin Company, submitted evidence relative to the application of the present power schedules to their service. It is pointed out that they have a large installation of motors, not all of which operate at the same time; that owing to the limitation in the present schedule, under which the maximum demand shall not be less than 50 per cent of the connected load, they have their motors sealed when not in operation in order to reduce the minimum charge and even then they are charged for a demand in excess of that actually created.

The sealing of motors by a consumer, thus eliminating the charge for connected load or demand during the season of the year when the consumer is not operating, is neither satisfactory to the consumer nor fair to the company. The schedules of general power rates do not contemplate this being carried on.

The rates for industrial service will be modified herein to the extent that the maximum demand will be limited to not less than 50 per cent of the connected load, which will, under operating conditions, be in operation at one time. The schedule will also be modified to the extent that where seasonal service is had and where the operation is primarily for less than ten months in the year, the minimum bill for service will be made cumulative. Temporary sealing of motors will not be permitted.

It is urged by representatives of the Oil Dale Water Company, that the rate for pumping purposes for municipal or privately owned public utilities serving water for domestic purposes should be the agricultural rate. The agricultural rates on this company's system as well as others have not as a whole carried their proportional share of the total cost of service although they have not resulted in higher rates to other classes of service than would have existed had this service not been rendered. The operations of the water companies supplying water for domestic service cannot be considered as agricultural and it would not appear that an extension of this schedule to such service should be made.

Two matters relative to the question of extensions were formerly submitted in these proceedings, in addition to the large number of other complaints and questions which were received and adjusted by the Commission's engineers.

Alex Gordon, representing some twenty-five applicants for service in the vicinity of Fresno, set forth the inability of these persons to obtain domestic lighting service from the San Joaquin Company. This matter has been taken up by the Commission's engineers and the company's cost estimates revised. It appears that under the rules on extensions which have been found reasonable by the Commission the parties desiring the extension should be required to advance the sum of \$18 each toward the cost of the extension.

Messrs. Nordstrom and Jerpe appeared on behalf of nineteen consumers now receiving lighting service from an extension of the San Joaquin Company located on Preacher avenue near Kingsburg. This extension was built in January, 1921, the applicants being required to advance the amount of \$170 each to obtain the service. It appears that prior to the construction of the line suggestion was made that the money would be refunded when the extension became profitable or

when new power business was added, and apparently the suggestion was made by the company's representative that it would be profitable when a third wire was added and refunds would then be made. For operating reasons the company extended the third wire on this pole line at the time the extension was made and the consumers now contend that in view of this fact and the fact that some additional business has been taken on the money should be refunded. If any such promises were made by the company's employees they are in violation of the company's rules on extensions. The evidence indicates that the extension is not such as to justify the entire expenditure by the company at this time and there appears considerable doubt whether it ever will be. In justice and fairness to the other consumers served and in view of the rules in effect, I can not recommend that the company be ordered to refund the advance.

Proposed rates.

Exhibit "A" attached to the order in this proceeding sets forth the schedules of rates which I find reasonable for the service rendered by the San Joaquin Light and Power Corporation, to be effective based upon regular meter readings taken on and after May 1, 1922.

Lighting rates for domestic and commercial service have been reduced under the new rate Schedule L-1 from 9 cents for the first 20 kilowatt hours to 8 cents for the first 30 kilowatt hours and by including a lower block for all service over 1000 kilowatt hours per month. Modification of the minimum charge for rural service taken from a single transformer has been made, reducing the charge slightly. A reduction in public outdoor street lighting service under Schedule L-3 has been made of practically 6 per cent.

Modification of the industrial power rate is made, reducing the average rate approximately 5 per cent by reduction in the rate set forth in the schedule and adding a fourth block for consumptions over 200 kilowatt hours per horsepower per month. Modification is made in the schedule making the minimum bill cumulative in the case of seasonal service.

Particular study has been given to the design and form of the agricultural rate in order that the numerous complaints which this Commission found in its investigation of service conditions might be eliminated. It appears that the demand and energy form of rate together with an optional rate on the energy basis will work out most satisfactorily. In order to reduce the burden upon the agricultural consumers during the first part of the season the annual demand charge and minimum bill have been made payable in eight equal monthly installments during the months of May to December, inclusive. A reduction in the demand charge of \$1 per horsepower per year is made and \$3

per horsepower per year in the minimum charge. Modification in the energy blocks also have been made. It is contemplated that the company will offer to each agricultural consumer the schedule of rates best suited to his operations, but in case a consumer selecting the demand and energy form rate has at the end of the year consumed less than 1000 kilowatt hours per horsepower year his bill will be adjusted to the second option.

Special instruction will be given San Joaquin Company relative to the proper application of these schedules in order that consumers may be correctly advised.

A modification is made whereby the period in which the agricultural rates are applicable will hereafter commence with April 1st rather than upon meter readings taken on and after April 1st. It appears from the evidence that the general irrigation season commences about April 1st and that it is reasonable to require the company to read all agricultural meters within a ten-day period at the start of the season year. I find it reasonable to require that as regards meters which have been read regularly between April 1 and April 30, 1922, inclusive, the company should revise its bills to these consumers on the basis that the consumption during this period should be considered as a part of the consumption coming under the schedule for the season commencing April 1, 1921.

From investigation regarding service conditions in the oil fields it appears advisable to continue the rate now in effect for this class of service, although a demand and energy form of rate was suggested by the Commission engineers.

Prior to 1920 the wholesale rate for electric service was in the form of a demand and energy rate. During 1920, owing to emergency conditions, this form was eliminated. It appears, however, at the present time that in fixing permanent rates a form of schedule which will vary with load factor conditions should be made effective.

As regards electric service to street railways, it appears that owing to the fact that railways cannot modify their requirements, a uniform energy rate may be made to apply.

I recommend the following form of order :

ORDER.

The Railroad Commission having instituted a proceeding on its own motion for the determination of rates and investigation of service of San Joaquin Light and Power Corporation and San Joaquin Light and Power Corporation having applied to the Railroad Commission for an order establishing just and reasonable rates, hearings having been held, briefs filed, and the matter being submitted and now being ready for decision :

The Railroad Commission hereby finds as a fact that the rates for electric service rendered by San Joaquin Light and Power Corporation and the rules and practices now in effect are unjust and unreasonable in so far as they differ from the rates, rules and practices hereinafter set forth and that the rates, rules and practices herein set forth are just and reasonable.

Basing its order on the foregoing findings of fact and other findings of fact contained in the opinion which precedes this order;

It is hereby ordered, that San Joaquin Light and Power Corporation

(1) Charge and collect for electric service rendered, based on regular meter readings taken on and after May 1, 1922, in accordance with the schedules of rates as set forth in Exhibit "A" attached hereto and made a part of this order.

(2) File with the Railroad Commission on or before May 1st the schedules of electric rates as set forth in Exhibit "A."

(3) Read all meters used to measure agricultural service between May 1st and May 10th during the year 1922 and between April 1st and April 10th of each year thereafter beginning with the year 1923.

(4) Bill for all agricultural service rendered based on regular meter readings taken between April 1 and April 30, 1922, inclusive on rates prescribed under present Schedule No. 7 for the 1921 season.

It is hereby further ordered, that San Joaquin Light and Power Corporation

(1) Submit to the Railroad Commission on or before June 1, 1922, a report setting forth in detail its plans for the improvement of electric service in its Los Banos District.

(2) Submit to the Railroad Commission a full and complete report of the measures it has taken or contemplates to take to eliminate conditions causing the "reversal of power" on its system.

(3) Institute a practice of holding monthly meetings beginning not later than May 15, 1922, at which its district managers and other employees who carry on the business of the company with the public may meet and where these employees may become acquainted and kept in constant touch with the proper application of rules and practices of the company and policies affecting public relations.

(4) Give each consumer who since June 1, 1921, has guaranteed a definite annual revenue or who has made an advance in order to obtain service the option of advancing an amount equal to the difference between the cost of the extension and three times the estimated annual revenue or of guaranteeing for a period of three years a total revenue equal to the cost of the extension as provided in the present extension rules.

(5) Submit to each consumer who since June 1, 1921, has made an advance or guarantee for service from an extension in which the

amount guaranteed or advanced is not based on actual costs, a statement setting forth the actual cost of the extension and give any such consumer the option of adjusting the advance or guarantee as set forth in the contract on the basis of the actual cost.

(6) Supply each existing consumer who has signed a contract for electric service a copy of such contract if same has not already been submitted to him.

(7) Furnish each new consumer with a copy of any contract signed by him whether requested or not.

(8) Furnish each consumer hereafter required to make an advance or guarantee to obtain service from an extension with an itemized account of the cost of the extension upon completion of the work.

(9) Refund or credit to those agricultural consumers who have not been operating under present Schedule No. 16 and who would have been advantageously affected by this schedule during the past season an amount equal to the difference between the amount actually billed and the amount which would have been billed had Schedule No. 16 been applied.

(10) Install on or before July 1, 1922, and thereafter maintain adequate demand recording and watt hour meters at Henrietta substation and Betteravia steam plant and at such other points of delivery of power to Midland Counties Public Service Corporation for the measurement of power delivered to that company.

It is hereby furthered ordered, that San Joaquin Light and Power Corporation

(1) Set aside to its depreciation reserve for electric properties on or before July 1, 1922, an amount sufficient to bring this reserve to a total of \$2,365,600, as of December 31, 1921.

(2) Set aside to its depreciation reserve commencing January 1, 1922, and until otherwise directed by the Railroad Commission, the sum of \$467,893 per annum, plus an amount per annum equal to that computed on the annuity rates set forth in Table No. 12 in the opinion preceding this order on all net additions to depreciable capital made after January 1, 1922.

(3) Set aside annually to its depreciation reserve until further directed by the Railroad Commission, 6 per cent upon an accrued depreciation of \$2,864,304 plus all net additions to depreciation reserve made on and after January 1, 1922.

San Joaquin Light and Power Corporation is hereby authorized to charge Midland Counties Public Service Corporation in addition to the charge for electric energy delivered on the basis of Schedule P-4 herein fixed the fixed charges and operating expenses, other than fuel, of the Betteravia steam plant.

The effective date of this order shall be May 1, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of April, 1922.

EXHIBIT "A."

Schedule of Rates, San Joaquin Light and Power Corporation.

Effective for service based on regular meter readings taken on and after May 1, 1922.

SCHEDULE L-1

(Canceling Schedule No. 1-C.R.C., Sheet No. 422-E, and Schedule No. 13-C.R.C., Sheet No. 357-E.)

General Domestic and Commercial Lighting Service Territory.

Entire territory served.

Rate.

First 30 kilowatt hours per meter per month.....	8 cents per kilowatt hour
Next 70 kilowatt hours per meter per month.....	6 cents per kilowatt hour
Next 200 kilowatt hours per meter per month.....	5 cents per kilowatt hour
Next 700 kilowatt hours per meter per month.....	4 cents per kilowatt hour
All over 1000 kilowatt hours per meter per month.....	3½ cents per kilowatt hour

Minimum charge.

(1) General. \$1.00 per meter per month.

(2) When separate transformers are required to be installed on distribution lines in excess of 5000 volts in rural territory, the minimum charge will be as follows:

Number of consumers served from single transformer	Minimum charge per month per consumer
1	\$3 00
2	2 00
3	1 50
4	1 25
5	1 00

(3) Lighting service supplied from power bank of transformers. \$1.00 per meter per month.

Special conditions.

(a) Single phase motors aggregating not more than 3 horsepower may be served at the request of the consumer through the same meter with the lighting service at the above lighting rate and minimum charge.

SCHEDULE L-2

(Canceling Schedule No. 2-C.R.C., Sheet No. 344-E.)

Commercial lighting service.

This schedule is applicable to general commercial lighting service and is an optional schedule with L-1.

Territory.

Entire territory served.

Rates.

(a) Demand charge.

First 4 kilowatts or less of maximum demand per month.....	\$10 00
All in excess of 4 kilowatts of maximum demand per month, per kilowatt.....	2 00

(b) Energy charge. 2½ cents per kilowatt hour.

Special conditions.

(a) The total monthly charge is the sum of the demand charge and energy charges.

(b) Under this schedule demand meters and watt hour meters will be installed and maintained by the company and at the company's expense.

(c) The maximum demand shall be the highest average kilowatt demand registered during any fifteen minute interval during the month for which the bill is rendered.

SCHEDULE L-3

(Canceling Schedule No. 3-C.R.C., Sheet No. 345-E.)

Public outdoor lighting service.

Applicable to all street, highway and other public outdoor lighting service.

Territory.

Applicable to the entire territory served by the company.

Rate.

Type of lamp	Annual demand charge per each lamp	Charge per 100 lamp hours
Arc lamps:		
(1) 6.6 amperes enclosed alternating current.....	\$34 50	\$0 50
(2) 6.6 amperes luminous.....	39 50	55
(3) 4.0 amperes luminous.....	35 50	50
Incandescent lamps:		
(4) 400 watt multiple or 600 candlepower series.....	32 00	65
(5) 500 watt multiple.....	33 00	75
(6) 300 watt multiple.....	30 50	55
(7) 250 watt multiple or 400 candlepower series.....	29 00	45
(8) 150 watt multiple or 250 candlepower series.....	25 00	30
(9) 100 watt multiple.....	20 00	23
(10) 80 watt multiple or 100 candlepower series.....	17 50	17
(11) 60 watt multiple or 80 candlepower series.....	14 50	11
(12) 40 watt multiple or 60 candlepower series.....	12 50	10
(13) 32 candlepower series.....	12 00	09

Special conditions.

(a) The total charge is the sum of the demand and lamp hour charges.

(b) The total charge is normally to be paid in twelve equal payments throughout the year unless otherwise agreed to between the consumer and company.

(c) All-night lamps will be considered as burning 4000 hours per year.

(d) Under the above schedule the company bears the installation, maintenance and operating expenses and provides all necessary lamp renewals.

(e) Where the company is required to provide ornamental lighting posts or standards an additional charge will be made for the same.

SCHEDULE L-4

(Canceling Schedule No. 4-C.R.C., Sheet No. 346-E.)

Rates and conditions the same as included under Schedule No. 4-C.R.C., Sheet 346-E.

SCHEDULE C-1

(Canceling Schedule No. 5-C.R.C., Sheet No. 347-E, and Schedule No. 6-C.R.C., Sheet No. 348-E.)

General Heating, Cooking and Combination Service.

Applicable to general domestic and commercial heating, cooking and/or water heating service and to domestic combination lighting, heating, cooking and/or water heating service.

Territory.

Entire territory served.

Rate.

(a) Domestic combination lighting, heating, cooking and/or water heating service.

First 30 kilowatt hours per meter per month.....8 cents per kilowatt hour

Next 120 kilowatt hours per meter per month.....4 cents per kilowatt hour

All over 150 kilowatt hours per meter per month.....1½ cents per kilowatt hour

(b) Domestic or commercial heating, cooking and/or water heating service.

First 150 kilowatt hours per meter per month.....4 cents per kilowatt hour

All over 150 kilowatt hours per meter per month.....1½ cents per kilowatt hour

Minimum charge.

Seventy-five cents per kilowatt of active connected heating, cooking and/or water heating load per month but not less than \$2.50 per month.

Special conditions.

(a) Rate (a) applies only where domestic consumer installs and uses cooking, heating, and/or water heating appliances other than lamp socket devices of at least 2 kilowatt capacity.

(b) Connected load is taken as the name plate rating of all heating and cooking apparatus permanently connected and which may be connected at any time, computed to 1/10 of a kilowatt. The lighting load, including lamp socket devices such as flatirons, toasters, etc., will not be considered as part of the connected load when determining the minimum charges.

(c) Single phase motors aggregating 5 horsepower or less may be combined under this schedule, in which case each horsepower of connected load shall be considered equivalent to 1 kilowatt of connected load when determining the minimum charge.

SCHEDULE P-1

(Canceling Schedule No. 8-C.R.C., Sheet No. 350-E.)

General power service.

Applicable to general power service supplied at 440 volts or less.

Territory.

Entire territory served.

Rate.

(a) Installations of less than 5 horsepower capacity.

First 200 kilowatt hours per meter per month.....5 cents per kilowatt hour

Next 200 kilowatt hours per meter per month.....2½ cents per kilowatt hour

All over 400 kilowatt hours per meter per month.....1½ cents per kilowatt hour

(b) Installations of 5 horsepower and over.

Consumption per H.P. per month	Rate for active connected loads of				
	5 H.P. to 9 H.P.	10 H.P. to 24 H.P.	25 H.P. to 49 H.P.	50 H.P. to 99 H.P.	100 H.P. and over
First 50 kilowatt hours.....	4.2¢	3.4¢	3.0¢	2.8¢	2.6¢
Next 50 kilowatt hours.....	2.0	2.0	1.9	1.8	1.7
Next 100 kilowatt hours.....	1.3	1.1	1.0	1.0	.9
All over 200 kilowatt hours.....	1.0	.9	.9	.8	.8

Minimum charge.

(a) General power service. \$1 per horsepower per month of active connected load, but in no case less than \$2 per month.

(b) Seasonal power service. Where the primary use of power is seasonal and is limited to ten months or less the minimum charge may at the option of the consumer be cumulative over a twelve months period at the rate of \$1.25 per month per horsepower of active load but not less than \$12.50 per month.

Special conditions.

(a) Upon application by the consumer or at the option of the company, the rates and minimum charges may be based upon the maximum demand instead of active connected load for installations exceeding 20 horsepower in which case the maximum demand shall not be less than 50 per cent of the rated active connected load and not less than 20 horsepower.

(b) Maximum demand meters when installed will be installed and maintained by the company at its expense.

(c) The maximum demand shall be the greatest average horsepower demand registered during any fifteen minute interval during the month.

(d) This schedule applies to service rendered at 110, 220 or 440 volts at option of consumer. All necessary transformers to obtain such voltage will be supplied and maintained by the company at its expense.

(e) The sealing of motors will not be permitted under this schedule.

(f) Any consumer may obtain the rate for a larger size installation by guaranteeing the rates and minimum charges for that larger installation.

(g) The rated active connected load in the case of industries having several motors installed, not all operated at one time, may be determined by inspection upon request of consumer.

SCHEDULE P-2

(Cancelling Schedule No. 7-C, R. C. Sheets Nos. 413-414-E.)

Agricultural service.

Applicable to general agricultural service.

Territory.

Entire territory served.

Rate.**Demand Charge**

Size of installations	Annual charge
1 to 4 horsepower.....	\$16 per horsepower per year, but not less than \$30 per year
5 to 14 horsepower.....	\$14 per horsepower per year
15 to 49 horsepower.....	\$13 per horsepower per year
50 to 99 horsepower.....	\$12 per horsepower per year
100 horsepower and over...	\$11 per horsepower per year

Energy Charge

First 1000 kilowatt hours per horsepower per year.....	0.9¢ per kilowatt hour
Next 1000 kilowatt hours per horsepower per year.....	0.8¢ per kilowatt hour
Next 1000 kilowatt hours per horsepower per year.....	0.7¢ per kilowatt hour
Next 2000 kilowatt hours per horsepower per year.....	0.6¢ per kilowatt hour
All over 5000 kilowatt hours per horsepower per year....	0.5¢ per kilowatt hour

Optional rate.

Any consumer may select at his option the following rate instead of the demand and energy rate set forth above.

Annual consumption per H.P.	Rate per kilowatt hour for connected loads of				
	1 H.P. to 4 H.P.	5 H.P. to 14 H.P.	15 H.P. to 49 H.P.	50 H.P. to 99 H.P.	100 H.P. and over
First 500 kilowatt hours.....	3.0¢	2.8¢	2.6¢	2.4¢	2.3¢
Next 500 kilowatt hours.....	2.0	1.8	1.8	1.8	1.7
Next 1000 kilowatt hours.....	.8	.8	.8	.8	.8
Next 1000 kilowatt hours.....	.7	.7	.7	.7	.7
Next 2000 kilowatt hours.....	.6	.6	.6	.6	.6
All over 5000 kilowatt hours.....	.5	.5	.5	.5	.5

Minimum charge.

First 10 horsepower at \$15 per horsepower per year, but not less than \$30 per year.

All over 10 horsepower at \$12 per horsepower per year.

Special conditions.

(a) Demand and minimum charges. The annual demand charges (or minimum charges) of the rate set forth above are due and payable in eight equal monthly installments during the months of May to December, inclusive.

(b) Energy charges. The energy rates of the two rates set forth above shall apply to service rendered based on all regular monthly meter readings taken on and after May 1st of any year and before May 1st of the succeeding year.

(c) Service commencing after April 1st. Any consumer whose service begins at a later date than April 1st of any year will be billed in accordance with the above rates modified as follows:

1. Service commencing on and after April 1st but on or before November 30th.

(a) The demand charge (or minimum charge) is to be applicable only during that period from date service is first taken to November 30th at the rate of one-eighth of the annual demand charge (or minimum charge) per month.

(b) The sizes of the energy blocks of the rate (or optional rate) are to be determined by multiplying the sizes of the blocks given in the rate (or optional rate) by the following factor, according to the month in which service commences:

Month in which service commences	Factor
April	1.0
May .....	.9
June .....	.8
July .....	.7
August .....	.6
September .....	.5
October .....	.4
November .....	.3

2. Service commencing on and after December 1st but prior to April 1st of the following year. The optional rate only (but with no minimum charge) will apply to such service up to April 1st of the following year. However, on April 1st the consumer then will have the option of selecting either the rate proper or of continuing with the optional rate. The charges for this service will be determined as follows:

(a) No minimum charge to apply.

(b) The sizes of the energy blocks of the optional rate are to be determined by multiplying the sizes as given in the optional rate by the following factors according to the month in which service commences.

Month in which service commences	Factor
December .....	.2
January .....	.1
February .....	.1
March .....	.1

(d) *Agricultural season.* Meters on all agricultural services will be read by the company between April 1st and April 10th of each year, beginning with 1923, and the above rates will apply for that year for service rendered after that date on which the meters are so read during ten day period.

(e) *Date of first demand or minimum payment.* The first payment of the annual demand charge (or annual minimum charge) will be due and payable upon presentation of the bill for service rendered, based on regular meter readings taken on or after May 1st.

(f) *Consumers permanently increasing or decreasing connected load* will have a corresponding adjustment in rates.

(g) *Guaranteeing rates for larger size installation.* Any consumer may obtain the rate for a larger installation by guaranteeing the rates and demand charges (or minimum charges) for that larger installation.

(h) *Maximum demand.* The above rates and charges may be based on horsepower of measured maximum demand occurring during the months in which the annual demand or minimum charges apply instead of horsepower of connected load, providing the total connected load of the installation is 20 horsepower or over in which case the maximum demand shall not be taken as less than 75 per cent of the total active connected load where the installation consists of one motor, and 50 per cent where the installation consist of two or more motors and provided further that in no case shall the rates and charges be based on the maximum demand unless that maximum demand is at least 10 per cent greater or less than the total active connected load.

The maximum demand shall be the greatest average horsepower demand registered during any fifteen minute interval during the period in which the demand or minimum charges apply.

(i) *Voltage.* This rate applies to service rendered at 110, 220 or 440 volts at the option of the consumer. All necessary transformers to obtain such service to be installed, owned and maintained by the company.

(j) *Consumers operating on the demand and energy rate* whose use in any one year is less than 1000 kilowatt hours per horsepower will have their bills adjusted to the optional schedule at the end of the twelve months period.

SCHEDULE P-3

(Cancelling Schedule No. 15 C. R. C. Sheets Nos. 416 and 417-E and Schedule No. 16 C. R. C. Sheets Nos. 419 and 430-E).

Intermittent service.

Applicable to industrial or agricultural power service required intermittently throughout the year. For industrial power service this schedule may be selected instead of P-1 and for agricultural service this schedule may be selected instead of P-2.

Territory.

Entire territory served.

Rate.

(a) *Demand charge.*

First 10 horsepower of connected load-----\$5 00 per horsepower per year

All over 10 horsepower of connected load----- 3 50 per horsepower per year

(b) *Energy charge.*

For industrial power service the energy charges without the minimum charges as set forth under Schedule P-1 will apply.

For agricultural power service the energy charges without the minimum charges as set forth under the optional rate of Schedule P-2 will apply.

Special conditions.

(a) The total charge is the sum of the demand and energy charges stated above.

(b) The demand charge is payable in five equal installments during the first five months after the date service is first rendered. The consumers may select if satisfactory to the company other months in which to pay the demand charges.

SCHEDULE P-4

(Cancelling Schedule No. 9-C. R. C. Sheet No. 351-E.)

Oil field service.

Applicable to all power service supplied to equipment used for pumping oil wells, operating and gathering pumps, leased line pumps and dehydrating plants, in connection with the production of oil.

Territory.

Entire territory served.

Rate.

1.4 cents per kilowatt hour.

Minimum charge.

\$1.25 per horsepower of connected load per month, but not less than \$12.50 per month.

When dehydrators are used the minimum charge for this load together with any additional load will be at the rate of \$1 per kilowatt of maximum demand but not less than \$1 per kilowatt of necessary transformer capacity required.

Special conditions.

(a) Service under this schedule to be supplied at 110, 220 or 440 volts at the option of the consumer. All necessary transformers to obtain such voltage will be supplied, owned and maintained by the company.

SCHEDULE P-5

(Cancelling Schedule No. 10-C. R. C. Sheet No. 398-E and Schedule No. 11-C. R. C. Sheet No. 353-E)

Wholesale power service.

Applicable to general power and resale service delivered at a standard voltage of 2200 volts or more.

Territory.

Entire territory served.

Rate (A).

Service at standard distribution voltage of 2200 volts or more.

Demand charge:

First 200 kilowatts or less of maximum demand per month	\$230 00
Next 300 kilowatts of maximum demand per month, per kilowatt	1 00
All over 500 kilowatts of maximum demand per month, per kilowatt	90

Energy charge:

	Oil field service	Resale and other service
First 300 kilowatt hours per kilowatt of maximum demand per month, per kilowatt hour	\$0 85	\$0 75
All over 300 kilowatt hours per kilowatt of maximum demand per month, per kilowatt hour	07	06

Rate (B).

Service from transmission lines at standard transmission voltage. The rate is the same as that set forth under rate (A) above less 10 per cent.

Special conditions.

(a) The total charge is the sum of the demand and energy charges given above.

(b) Service under rate (A) will be supplied by the company at a standard distribution voltage of 2200 volts or more depending upon the distribution voltage obtainable. Service under rate (B) will be supplied by the company from its main transmission line at the transmission line voltage.

(c) The maximum demand in any month will be the average kilowatt delivery of the fifteen minute interval in which the consumption of electric energy is greater than in any other fifteen minute interval in the month. The maximum demand on

which the demand charge will be based will not be less than 60 per cent of the demand occurring during the eleven preceding months.

(d) Any demand occurring between the hours of 11.00 p.m. and 6.00 a.m. of the following day will not be considered in determining the above demand charge.

SCHEDULE P-6

(Cancelling Schedule No. 12-C. R. C. Sheet No. 411-E)

Railway service.

Applicable to Fresno City Traction Company and Bakersfield and Kern Electric Railway Company.

Rate.

1 cent per kilowatt hour.

Minimum charge.

No minimum charge.

Special conditions.

The above rate applies to the service delivered and measured at 2300 volts.

SCHEDULE P-7

(Cancelling Schedule No. 14-C. R. C. Sheet No. 358-E)

Rate and conditions same as set forth in Schedule No. 14.

DECISION No. 10350.

IN THE MATTER OF THE INVESTIGATION BY THE RAILROAD COMMISSION ON ITS OWN MOTION INTO THE REASONABLENESS OF THE RATES FOR ELECTRIC SERVICE OF SOUTHERN CALIFORNIA EDISON COMPANY.

Case No. 1710.

Decided April 24, 1922.

RATES—ELECTRIC UTILITY—EMERGENCY PROCEDURE.—After modification in certain schedules and rules, a percentage discount is made applicable to lighting and power bills, aggregating \$1,000,520 a year. The Commission announced that it would institute on its own motion another procedure in the nature of a regular rate hearing at which fundamental questions of rate base, rate of return, depreciation allowance and allowance for taxes will be fully considered.

Roy V. Reppy and *B. F. Woodard*, for Southern California Edison Company.

W. J. Carr, for the cities of Alhambra, Anaheim, Arcadia, Chino, Colton, Covina, Fillmore, Fullerton, Huntington Beach, La Verne, Lindsay, Long Beach, Los Angeles, Monrovia, Newport Beach, Pasadena, Pomona, Porterville, San Buenaventura, Santa Monica, South Pasadena, Venice, Sierra Madre, and the County of Los Angeles.

F. S. Brittain, for California Farm Bureau Federation, *F. E. Saunby* of Orange County, and *C. A. Melcher* of Kern County.

L. L. Dennett and *Irring H. Althouse*, for the Terra Bella Irrigation District.

J. H. Howard, city attorney, for the City of Pasadena.

William Hazlett, city attorney, for the City of South Pasadena.

Jess E. Stephens and *Milton Bryan*, and *H. Z. Osborn, Jr.*, for the City of Los Angeles and the Board of Public Utilities of the City of Los Angeles.

George A. French, for the City of Riverside.

E. H. Scott, for the City of Santa Ana.

John Bruns, for certain agricultural and industrial interests of Orange County.

George L. Hoodenpyl and Bruce Mason, for the City of Long Beach.
F. C. Finkle, for the Redlands and Yucaipa Land Company, South Mesa Water Company, Yucaipa Water Company No. 1, and the Western Heights Water Company of San Bernardino County.
J. J. Deuel, for the Kern County Farm Bureau.
Walter F. Dunn, for the City of Arcadia.
John P. Dunn, for the City of Monrovia.
Homer Games, for the City of Anaheim.
S. M. Haskins, for Los Angeles Railway Corporation.
Frank Karr, for Pacific Electric Railway Company.
William Guthrie, for City of San Bernardino, Marcus Katz Company, Domestic Water Company, California Portland Cement Company, San Bernardino Lumber and Box Company, and Hanford Iron Works Company.
C. L. McFarland, for Riverside Portland Cement Company.
Joseph Allard, for City of Pomona, City of Claremont, City of La Verne, and the La Verne Water Association.
J. E. Barker, for the Cities of Azusa and San Marino.
N. B. Bachtell, for Antelope Valley.
W. A. Johnstone, for San Dimas Water Company and San Dimas vicinity.
H. C. Warren, for Glendale Consolidated Irrigation District.
T. C. Gould, for the City of Alhambra.
H. L. Lincoln, for California Association of Ice Industries.
Albert Launer, for the City of Fullerton.
Power and McFadden, by M. E. Power, for Visalia Electric Railroad Company.
W. G. Van Pelt, for Globe Grain and Milling Company and Globe Cotton Oil Mills.
D. A. Eckert, for the Lindsay-Strathmore Irrigation District.
 BENEDICT, *Commissioner.*

OPINION.

This proceeding was instituted by the Commission on its own motion on January 21, 1922, for the purpose of inquiring into the reasonableness of the net return actually received by Southern California Edison Company from existing rates which were established by Commission's Decision No. 8815, effective April 20, 1921.

Recent indications pointed to the possibility of a reduction in the cost to consumers and it was the intention of the Commission to make this an emergency proceeding with a view to securing for consumers at the earliest possible date such reduction in rates as seemed reasonable. In order to accomplish this it was not contemplated that a new set of rates would be established but that the saving to the consumers would be made by flat percentage reductions except that where it was clearly shown in the investigation any rate had proven specially burdensome on certain classes of consumers, then in such cases certain modifications of rates would also be made.

During the course of the hearings the Commission limited the proceeding to the consideration of what general modifications should be made in existing schedules of rates to eliminate unnecessary or unreasonable burdens where the same might exist, and what reduction should be made at this time to the benefit of the public in general based on the findings in Decision No. 8815 (C. R. C. Volume 19, page 595). Consideration of the fundamental issues such as rate base, rate of return, depreciation allowance and allowance for taxes were excluded in this

proceeding. The Commission announced that it would institute on its own motion another proceeding in the nature of a regular rate hearing in which all of these fundamental issues would be fully considered.

Hearings in this matter were held in Los Angeles on February 27, 28, March 1, 21, 22, 23, 24 and 25, 1922, at which testimony was taken. The matter was submitted on March 25th with the provision that briefs might be filed on or before April 5, 1922. Briefs have been filed by attorneys for Southern California Edison Company; W. J. Carr, attorney for certain cities; F. S. Brittain, for California Farm Bureau Federation et al.; L. L. Dennett, for Terra Bella Irrigation District; F. C. Finkle, for Yucaipa Water Company et al.; and W. G. Van Pelt, for Globe Grain and Milling Company and Globe Cotton Oil Mills. Southern California Edison Company has filed reply briefs to the briefs of Terra Bella Irrigation District and Globe Grain and Milling Company. Documentary statements in general in the form of briefs have been filed by California Association of Ice Industries, Visalia Electric Railway Company, City of Fullerton, California Portland Cement Company, Riverside Portland Cement Company and Ontario Power Company.

This proceeding requires determination of the following:

- (1) The rate base for the year 1922 according to the methods used in Decision No. 8815.
- (2) The probable sales and revenue for the year 1922.
- (3) The reasonable operating expenses for the year 1922.
- (4) What excess of earnings above the reasonable return as determined on the basis of Decision No. 8815 may be expected.
- (5) Any modifications of existing schedules of rates that may appear necessary in order to eliminate any special burdens that may have resulted from the application of existing schedules.

Upon the determination of the above mentioned matters the Commission can then establish what general reduction in rates should be made.

The rates fixed by Decision No. 8815, in Application No. 5394, became effective for service applicable to meter readings taken on and after April 20, 1921, with the exception of the rates for the service in the San Joaquin Valley which became effective April 1, 1921. These rates have continued in effect to date with the exception of the general lighting schedules which have been modified by the company by a reduction of the charge for the first block of the schedules from 9 cents to 8 cents per kilowatt hour, effective January 2, 1922, and also certain modifications of the cooking and heating schedule were made.

Rate Base.

The rate base established in Decision No. 8815 was the average estimated operative investment plus an allowance for working cash

capital and materials and supplies. Operating expenses were allowed which included all taxes except bond coupon tax. The fair annual rate of return on the rate base was fixed at 8.3 per cent. In that proceeding no segregation was made of the capital invested in the system leased by the Edison Company to the city of Los Angeles, nor were the net earnings therefrom segregated from the total net earnings of the Edison Company. In this proceeding this same course will be followed although the sale and transfer of this property to the city is now almost complete. This matter will be fully considered in the subsequent general rate proceeding affecting the Edison Company.

Two estimates of rate base for 1922 were submitted in evidence in the present proceeding, one by A. R. Kelley of the Southern California Edison Company, totalling \$105,827,699.50, and the other by L. S. Ready, assistant chief engineer of the Commission, totalling \$102,908,118.

Mr. Ready excluded from the rate base \$1,270,000 claimed as operative investment by the company but not closed to the books. The exclusion of this amount appears correct under the limitation of this proceeding. Mr. Ready also made a deduction of \$800,000 from the company's estimate of investment in production properties for 1922, which amount represented a part of the cost of the Shaver Lake reservoir and diversion rights. It is urged by the Edison Company that under the limitations of this proceeding the deduction of this \$800,000 should not be made at this time but should be left for consideration in the general rate proceeding which is to follow. I believe, however, that the scope of this proceeding does not eliminate consideration of the additions and betterments actually made. As a matter of fact the investment at Shaver Lake covers two purposes, that of storage and of diversion. The present use, however, is primarily for diversion only as the storage reservoir has not been constructed.

It is urged by attorneys for the Farm Bureau and the cities that deductions should be made in the cost of Big Creek No. 8 development because that development has been constructed for future enlargements, the tunnel being of sufficient capacity to carry four times as much water as the present generator capacity requires. Under the limitations of the present proceeding, consideration of this item would seem to be eliminated because any deduction made from this plant would necessarily affect the fundamental principle as to the rate base established in Decision No. 8815, which subject is postponed for consideration in the larger proceeding that is to follow.

In view of the contract for 20,000 kilowatts from San Joaquin Light and Power Corporation, it would not seem proper to include the property of the Visalia steam plant as being in operation during the year 1922. Therefore, this property is not included.

Edison Company included for general additions and betterments for half the year 1922, \$930,000 more than Mr. Ready allows. Edison Company's brief indicated that \$500,000 of this may be accounted for by special improvement work on the leased system in Los Angeles. In view of the probable transfer of these properties in the near future this extra expenditure by the company may not be expected to occur. It appears that under the general rule followed by this Commission the allowance for working cash capital for 1922 should be \$820,000 or two months' average operating expenses exclusive of taxes.

I find the following to represent the reasonable rate base for 1922 conditions in connection with this proceeding:

TABLE NO. 1.

Southern California Edison Company—Reasonable Rate Base, 1922.

(Based on Decision No. 8815 and Operative Additions and Betterments.)

Edison System, exclusive of Mount Whitney System, December 31, 1921	\$70,210,073 00
Mount Whitney System as of June 30, 1920	6,138,410 00
San Joaquin and Eastern Railway—C. R. C. allowance and additions and betterments reported	1,061,389 00
Large hydro developments as of January 1, 1922:	
Third unit Big Creek No. 2	\$1,173,706 00
Big Creek No. 8	4,300,315 00
Shaver development	1,763,973 00
Kern River No. 3	10,614,416 00
Vestal substation	1,136,189 00
Eagle Rock substation	541,582 00
Total	19,530,216 00
Estimated added capital during 1922—average for year	3,000,000 00
Total	\$99,940,118 00
Working cash capital	820,000 00
Materials and supplies	1,800,000 00
Total	\$102,560,118 00

Depreciation.

Mr. Ready has included \$1,450,000 for depreciation annuity. A recomputation of the allowance based on the rates of annuity used in Decision No. 8815 would require that this be increased to \$1,500,000.

Revenue.

Estimates of sales and revenue for the year 1922 were submitted by the company through its executive engineer, H. A. Barre, L. S. Ready of the Commission and George Eberle for the cities represented by W. J. Carr. With slight corrections and revisions made by the witnesses, the total operative revenues submitted were as follows:

By H. A. Barre	\$16,479,000 00
By L. S. Ready	16,762,000 00
By Geo. Eberle	16,900,000 00

It would appear reasonable to accept the estimate submitted by Mr. Ready with the following change: The allowance by Mr. Ready of \$15,000 for rental of leased plant will be excluded owing to the modification of Schedules P-2, P-3 and P-5 made herein.

Operating Expenses.

The following table is a comparison of the estimates of operating expenses submitted by Mr. Barre, Mr. Ready and Mr. Eberle with revisions as made at the hearing:

TABLE NO. 2.

Southern California Edison Company—Comparisons of Estimated Operating Expenses, 1922.

	H. A. Barre	Geo. Eberle	L. S. Ready
Production expense:			
Hydro	\$115,000 00	\$188,400 00	\$140,000 00
Steam operations and other than oil ..	805,000 00	473,490 00	610,000 00
Fuel oil	1,388,000 00	928,013 00	1,051,500 00
	(@ \$2.00)	(@ \$1.50)	(@ \$1.50)
Purchased power	58,000 00	58,000 00	163,000 00
Total production	\$2,696,000 00	\$1,947,903 00	\$2,264,500 00
Credit energy used other departments	134,000 00	135,000 00	135,000 00
Credit oil reserve	119,000 00		119,000 00
Total production	\$2,443,000 00	\$1,812,903 00	\$2,010,500 00
Transmission expense	325,000 00	277,545 00	290,000 00
Distribution expense	1,130,000 00	1,070,000 00	1,100,000 00
Commercial expense	835,000 00	680,000 00	700,000 00
General expense	580,000 00	510,000 00	500,000 00
Uncollectible bills	30,000 00		20,000 00
Rental	40,000 00	50,000 00	50,000 00
San Joaquin and Eastern Railway Company deficit	35,000 00		
Totals	\$5,418,000 00	\$4,400,448 00	\$4,670,500 00

One of the main items of difference in the various estimates is that of cost of fuel oil. Mr. Barre has set up the cost at \$2 per barrel as provided in the present contingency reserve agreement. The company, however, testified by its general manager, and stated through its attorneys in their brief, that estimated operating expenses could be proportionately reduced provided the requirements as to contingency reserve are also modified. Mr. Barre's figures on this basis would be the same as Mr. Ready's estimate, thus reducing the company's total estimate to \$5,081,500, or approximately \$400,000 in excess of Mr. Ready's estimate.

Estimates of operation and maintenance of production properties by Mr. Ready and by Mr. Barre are similar with the exception that the

Edison Company has included \$195,000 of special items of maintenance for 1922. It is apparently urged that these items represent largely contingencies or special maintenance in excess of the normal. The allowance made by Mr. Ready includes a relatively large amount of maintenance work when compared with preceding years' work. I am not convinced that such a contingency allowance should be made in 1922 estimates. Allowance was made in 1920 for maintenance which was deferred. Although such an allowance was not made in 1921, it appears that all of the deferred maintenance from 1920 was not made up. With the tendency to declining labor markets and from consideration of the fact that the estimates submitted were largely based upon conditions during a more expensive period, I do not find that such an amount as estimated by the company should be herein included. Edison Company figures call for approximately \$154,000 deferred maintenance in 1921. Much of the addition referred to by Edison Company appears to be of that nature. The allowance by Mr. Ready will be increased by \$45,000.

The transmission-operation estimates vary considerably, which the company declares is due to omission by Mr. Ready and Mr. Eberle of certain extraordinary transmission maintenance, one item being \$31,000 for clearing the right of way of the tower lines, a requirement which occurs once in about five years. In view of past earnings and the further fact that this charge occurs but once in several years it should not be chargeable entirely to the year 1922. For this proceeding \$300,000 would appear a reasonable amount for operating expenses. The allowance of \$1,100,000 appears reasonable for distribution operations.

A relatively wide variation exists between the estimates of commercial and general expense submitted by the Edison Company and those submitted by Mr. Eberle and Mr. Ready, the latter estimates being closely in agreement. Southern California Edison Company's estimate of operating expenses for 1922 is approximately 40 per cent in excess of its estimate for 1921, which was allowed in the previous rate Decision No. 8815, although its 1922 business thus far shows less than 20 per cent increase over 1921.

The peak of salaries and prices occurred about the early part of 1921 and it would hardly seem reasonable to conclude that the service of the company justifies such a marked increase in the overhead and commercial expense. Surely the installation of additional offices should not necessitate increasing the cost of commercial expense per consumer over its entire system. If it is necessary to increase the number of offices, as proposed, it should be done, but with a system as large as Edison Company this should not increase the commercial expenses at a greater rate than the increase in number of consumers served. It would appear

that a reasonable allowance for commercial and general expense for the year 1922 would be \$1,250,000. This is slightly over 1 per cent in excess of the 1921 actual expenses and is \$165,000 less than the amount asked for by the company.

The following table sets forth the rate base, revenue, expense, net return and earnings from the city of Los Angeles system, depreciation and balance for return upon investment which would appear reasonable from the evidence in this proceeding. Upon the basis of an 8.3 per cent return upon the rate base it appears that a total reduction applicable to the electric business of the Edison Company on the basis of the year 1922 would be \$1,609,520.

TABLE NO. 3.

Southern California Edison Company—Estimated Revenue and Expense, 1922.

Rate base.....	\$102,560,000 00
Operating revenue:	
Light and power.....	\$16,697,000 00
Miscellaneous revenue.....	50,000 00
Total.....	\$16,747,000 00
Operating expenses:	
Production.....	\$2,190,000 00
Transmission.....	300,000 00
Distribution.....	1,100,000 00
Commercial.....	750,000 00
General.....	500,000 00
Taxes.....	1,630,000 00
Rent of plant.....	50,000 00
Uncollectible bills.....	20,000 00
Deficit San Joaquin and Eastern Railway.....	
Energy used other departments.....	*135,000 00
Total.....	\$6,405,000 00
Net return for operations.....	\$10,342,000 00
Net from city of Los Angeles.....	1,280,000 00
Total net revenue.....	\$11,622,000 00
Depreciation.....	1,500,000 00
	\$10,122,000 00
8.3% return on rate base.....	8,512,480 00
Excess over fair return.....	\$1,609,520 00

*Deduct.

It is urged by certain of counsel for consumers, that in fixing rates in this proceeding consideration should be given to the company's earnings of 1921 in excess of an amount equal to 8.3 per cent upon the 1921 rate base. The increase in the company's net revenue over the Commission's estimate for 1921 was due largely to a much greater purchase of electric energy by the city of Los Angeles, that city purchasing almost double what was estimated by the company's and

city's engineers in the previous proceeding, and to the fact that the higher surcharge rates were in effect up to April 20, 1921. Edison Company has transferred \$487,000 of the excess to depreciation reserve. In view of these facts it does not appear that additional reduction should be made in future rates on account of the 1921 earnings.

This proceeding is similar in many respects to the emergency proceedings had during the war period. Consideration should be given to certain modifications in the rates of the Edison Company, where the evidence indicates changes should be made to eliminate special burdens or to place the schedules in correct relation, before applying a more or less general discount similar to the general increases applied heretofore. Modification will be made in the agricultural schedule in the southern district. The lighting schedules will be changed to conform with those as fixed in Decision No. 8815. The requirement in Schedules P-2, P-3 and P-5 that service will be delivered at standard distribution or transmission voltage of 2200 volts or over will be changed so that consumers under these schedules may receive service at 2200 volts or over at their option. This will eliminate the purchase or ownership of transformers by consumers under these schedules. The minimum maximum demand limitation under Schedules P-3 and P-5 will be modified.

In Decision No. 8815 no definite schedule of street lighting rates was fixed. The company was ordered to file within a given time proposed schedules of rates for this service. Extensions of time to comply with this order have been granted up to March 31, 1922. The Commission's engineering department has made an analysis of the proposed schedules and Southern California Edison Company has been directed to file and make effective revised schedules to apply to street lighting service. Complaint is made in this proceeding by the city of Fullerton of discrimination that exists. The schedules of rates which are established as reasonable by this Commission will reduce the charges considerably to a number of the street lighting consumers. However, there exists at the present time a number of cities and municipalities receiving service under rates materially below these schedules. Although it is not required that these consumers be placed on schedule at this time, it does not appear that consumers on existing contracts should have their rates reduced except as a reduction follows the application of the new schedules. In this proceeding it will be provided that a percentage reduction shall apply to the regular schedule for street lighting service, but that no reduction will be made in the special rates. Such cities as can benefit by so doing will have the right to change over to the new schedules.

In general, the minimum bills for power and lighting service have not been increased above reasonable pre-war charges. It does not

appear, therefore, that at this time any general reduction should be applied to the minimum bills. Reduction will be applied to the demand and, or, energy parts of the schedules. The reductions will be made in the form of percentage discounts as follows:

Eight per cent for street railway service; 10 per cent for street lighting, power and resale, and 12 per cent for general lighting.

I recommend the following form of order:

ORDER.

The Railroad Commission having instituted a proceeding on its own motion to determine what modifications and reductions should be made at this time in the rates charged by Southern California Edison Company for electric service, the matter being submitted and ready for decision:

The Railroad Commission hereby finds as a fact that the rates charged by Southern California Edison Company for electric service now in effect are unjust and unreasonable in so far as they differ from the rates as modified herein, which modified rates are found to be just and reasonable for the service rendered based upon regular meter readings taken on and after May 1, 1922.

Basing its order on the foregoing finding of fact and the findings of fact set forth in the opinion preceding this order;

It is hereby ordered:

1. That Southern California Edison Company reinstate its lighting Schedules Nos. L-1 and L-4 as heretofore specified in Decision No. 8815, effective based upon all regular meter readings taken on and after May 1, 1922.

2. That Southern California Edison Company modify its Schedules Nos. C-1 and C-2 to the extent that the rate of the first energy block under subdivisions (b) and (c) in Schedule C-1 and subdivision (b) in Schedule C-2 to read "9 cents per kilowatt hour."

3. That Southern California Edison Company modify the "Special Conditions" under Schedule P-2 to read as follows:

(a) Service under this schedule will be supplied by the company at the standard voltage of 2200 volts or over as requested by the consumer. Transforming equipment, if required, will be owned and installed by the company and maintained at its expense.

4. That Southern California Edison Company modify its "Special Conditions" under Schedules P-3 and P-5 to read as follows:

(a) Service under this schedule will be supplied by the company at the standard voltage of 2200 volts or over as requested by the consumer. Transforming equipment, if required, will be owned and installed by the company and maintained at its expense.

(b) The maximum demand in any month will be the average kilowatt delivery in the 30-minute interval in which the consumption of electric energy is greater than in any other 30-minute interval in the month. The maximum demand on

which the readiness-to-serve charge will be based will be not less than 70 per cent of the maximum demand occurring during the 11 months preceding.

In determining the above, demands occurring between the hours of 11.00 p.m. to 6.00 a.m. of the following day will not be considered in computing the demand charge under this schedule.

(c) In case of seasonal service, the consumer may at his option have the readiness-to-serve charge based on the average of the three monthly highest demands created during the 12 months' period, in which case the total seasonal readiness-to-serve charge will be nine times the monthly charge above listed.

5. That Southern California Edison Company file on or before May 1, 1922, and make effective for service based upon meter readings taken on and after May 1, 1922, the following optional schedule for agricultural service:

SCHEDULE P-15.

Agricultural power service (optional with Schedules P-6 and P-7).

Applicable to general agricultural power service.

Territory.

Southern California District.

Rate.

Consumption per horsepower per year	Rate per kilowatt hour for connected loads of				
	1 H.P. to 4 H.P.	5 H.P. to 14 H.P.	15 H.P. to 49 H.P.	50 H.P. to 99 H.P.	100 H.P. and over
First 400 kilowatt hours-----	4.0¢	3.3¢	3.1¢	2.9¢	2.8¢
Next 600 kilowatt hours-----	2.2¢	2.0¢	1.8¢	1.6¢	1.5¢
All over 1,000 kilowatt hours-----	1.5¢	1.4¢	1.3¢	1.2¢	1.1¢

Minimum charge.

First 5 horsepower, \$9.00 per horsepower year, but not less than \$15.00.

All over 5 horsepower, \$7.50 per horsepower year.

Special conditions.

(a) This rate applies to service rendered at 110, 220 or 440 volts at the option of the consumer. All necessary transformers to obtain such voltage to be installed, owned and maintained by the company.

(b) The annual period upon which this rate is based shall begin on April 1st of any year and end on March 31st of the succeeding year.

(c) In the case of a new consumer whose service under this rate begins at a later date than April 1st of any year, then for the remainder of the first year of service the blocks of this rate will be reduced in proportion to the whole number of months between the date of beginning of service and the following April 1st. A similar proportional reduction will be made in the minimum charge.

(d) The minimum charge is payable in six monthly installments during the months of May to October, inclusive.

(e) Any consumer may obtain the rates for a larger installation by guaranteeing the rates and minimum applicable to the larger installation.

(f) Consumers desiring, may elect to pay the following respective amounts in six equal monthly installments during the months of May to October, inclusive, plus the energy rates set forth in the last block above for all energy consumed:

1- 4 horsepower-----	\$14 20 per horsepower
5-14 horsepower-----	11 20 per horsepower
15-49 horsepower-----	10 20 per horsepower
50-99 horsepower-----	9 20 per horsepower
100 and over-----	9 20 per horsepower

6. That Southern California Edison Company modify its Schedule P-8 by reducing the minimum charge to read as follows:

Minimum charge.

First 10 horsepower, \$15 per horsepower of connected load per annum but not less than \$30.

All over 10 horsepower, \$12 per horsepower of connected load per annum.

It is hereby further ordered, that Southern California Edison Company make effective on bills for service rendered based on regular meter readings taken on and after May 1, 1922, the following discounts:

(a) 12 per cent on bills for lighting service rendered based on Schedules L-1, L-2, L-4 and L-5.

(b) 10 per cent on bills for street and outdoor lighting service based on Schedules L-3, L-6, L-7, L-8 and L-9 which are to be filed and made effective May 1, 1922.

(c) 10 per cent on bills for general heating and cooking and combination service based on Schedules C-1 and C-2.

(d) 10 per cent on bills for power service based on Schedules P-1, P-2, P-3, P-4, P-5, P-6, P-7, P-8, P-9, P-10, P-11, P-12, P-14 and P-15.

(e) 8 per cent on bills for railway service based on Schedule P-13.

The above discounts will not apply:

(a) To reduce the "minimum charge" as provided in the various filed schedules.

(b) To bills for street lighting service under special contracts or rates.

It is hereby further ordered, that until otherwise directed by this Commission, Southern California Edison Company set forth on bills rendered to consumers the discount herein ordered with the following notation:

"Discount Ordered by Railroad Commission \$_____."

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-fourth day of April, 1922.

DECISION No. 10354.

IN THE MATTER OF THE APPLICATION OF THE RUSSIAN RIVER WATER COMPANY, A CORPORATION, FOR PERMISSION TO ISSUE STOCK.

Application No. 7654.

Decided April 25, 1922.

A. F. Lemberger, for Applicant.

BY THE COMMISSION.

OPINION.

In this application, Russian River Water Company asks permission to issue and sell at not less than par, \$25,000 of its seven per cent cumulative preferred stock and \$28,675 of its common stock, and to use the proceeds to reimburse its treasury and to pay for additions and betterments.

A public hearing was held before Examiner Satterwhite in San Francisco on April 12, 1922.

Russian River Water Company was incorporated on or about April 12, 1917, with an authorized capital stock of \$50,000, divided into 500 shares of the par value of \$100 each, all shares being common. Subsequently, on December 4, 1920, the authorized capital stock was increased to \$125,000, consisting of \$25,000 (250 shares) of seven per cent cumulative preferred stock and \$100,000 (1000 shares) of common stock.

Applicant reports that no preferred stock has been issued and that on December 31, 1921, \$42,950 of common stock was outstanding. The record shows that in addition \$28,975 of common stock has been authorized by the Commission but not yet issued. Applicant further reports no bonded indebtedness, \$25,500 of notes payable and \$34,542.66 of miscellaneous accounts payable.

It reports its income and corporate surplus accounts for the year ending December 31, 1921, as follows:

Income account.

Operating revenues -----	\$14,725 16
Operating expenses -----	9,858 94
Net operating revenues -----	\$4,866 22
Interest deductions -----	\$1,065 86
Miscellaneous rent deductions -----	464 09
Total deductions -----	\$1,529 95
Balance for year -----	\$3,336 27

Corporate surplus account.

Deficit on December 31, 1920 -----	\$1,654 47
Profit for year from income account -----	3,336 27
Miscellaneous additions to surplus -----	605 69
Surplus on December 31, 1921 -----	2,287 49

The company now asks permission to issue and sell all of its preferred stock and all of the unissued common stock that has not been authorized by the Commission. It proposes to use \$39,300 of the proceeds to reimburse its treasury for capital expenditures made during 1920 and 1921, and to expend the balance when and as authorized by the Commission in supplemental orders to pay for future additions and betterments.

The company reports in Exhibit "3" that during the years 1920 and 1921 it expended for capital purposes the sum of \$39,317.36 on account of which it now asks permission to reimburse its treasury through proceeds obtained from the sale of stock. The testimony of Harold

Everhart, applicant's auditor, shows that this amount was obtained from the following sources:

From notes payable -----	\$25,500 00
From accounts payable -----	9,028 87
From surplus earnings -----	2,287 49
From reserve for accrued depreciation -----	2,501 00
Total -----	\$39,317 36

The company should use \$34,528.87 obtained from the sale of the stock to pay indebtedness, \$2,501 of the proceeds to reimburse its reserve for accrued depreciation, and \$2,287.49 of the proceeds to reimburse its corporate surplus.

It appears from the testimony herein and from the petition that applicant first planned the issue of its preferred stock prior to 1921 and circulated a prospectus or statement showing that the stock carried dividends cumulative from January 15, 1921, and that the moneys obtained from the sale would be used for capital additions set forth in a prospectus. Subscriptions were obtained for some of the preferred stock, but none was issued. The company now reports that developments later showed that some of the capital expenditures were not as imperative or necessary as others mentioned in the prospectus, while some not mentioned at all had to be made to enable applicant to give better service. It is the intention of applicant to cancel the conditions of the original prospectus and to afford the subscribers the opportunity to cancel their old subscriptions. It will take new subscriptions from those conversant with the fact that the conditions of the old prospectus will not be fulfilled. The old subscriptions may be cancelled provided any money paid thereon be returned with interest at the rate of 7 per cent during the period that the money was under the control of applicant. If this is done, no one, it seems, has any cause for complaint. Those who have heretofore subscribed for stock may, if they so desire, subscribe again under the new conditions.

T. C. Mellersh, applicant's vice president and general manager, testified that he anticipated little difficulty in disposing of the common stock at par and of the preferred stock at par plus accrued dividends since January 15, 1922.

ORDER.

Russian River Water Company having applied for permission to issue and sell stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified herein and that this application should be granted subject to the conditions of this order;

It is hereby ordered, that Russian River Water Company be and it is hereby authorized to issue and sell \$25,000 of its 7 per cent cumulative preferred stock at not less than par, plus accrued dividends from January 15, 1922, and to issue and sell \$28,075 of its common stock at not less than par.

The authority herein granted is subject to the following conditions:

1. Applicant may use \$34,528.87 of the proceeds to pay indebtedness incurred for the purpose of acquiring and constructing additions and betterments to its plant. Proceeds in the sum of \$2,501 may be used to reimburse applicant's reserve for accrued depreciation, and \$2,287.49 of the proceeds to reimburse its surplus. The proceeds used to reimburse the reserve for accrued depreciation must be used either to replace property or to acquire additional properties.

2. The remaining proceeds obtained from the sale of the stock herein authorized shall be deposited by applicant with some bank or banks as a special deposit and expended only as permitted by the Railroad Commission in a supplemental order or orders.

3. Applicant may cancel subscriptions heretofore taken for preferred stock provided it return to the subscribers all moneys paid on such subscriptions with interest at the rate of 7 per cent for such period as the money was under the control of applicant.

4. Russian River Water Company shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

5. The authority herein granted will apply only to such issue and sale of stock as may be made on or before December 31, 1922.

Dated at San Francisco, California, this twenty-fifth day of April, 1922.

DECISION No. 10355.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN POWER COMPANY OF CALIFORNIA, A CORPORATION, TO ISSUE AND SELL TWO MILLION DOLLARS FACE AMOUNT OF SERIES "C" FIRST AND REFUNDING MORTGAGE BONDS.

Application No. 7754.

Decided April 25, 1922.

Chaffee E. Hall, for Applicant.

BENEDICT, *Commissioner*.

OPINION.

Great Western Power Company of California asks permission in this application to issue and sell at 96 per cent of their face value and

accrued interest Series "C" 6 per cent first and refunding mortgage bonds due February 1, 1952, equal in face amount to the face amount of its Series "B" 7 per cent first and refunding mortgage bonds that may be redelivered to it upon redemption of its general mortgage 8 per cent bonds or equal in face amount to the sum of \$2,000,000, whichever shall be greater, and use the proceeds to redeem the 8 per cent bonds or for such other purposes as the Commission may hereafter authorize.

The Railroad Commission by Decision No. 7984 dated August 17, 1920, and by Decision No. 8364 dated November 26, 1920, authorized Great Western Power Company of California to issue and sell \$5,000,000 face amount of general mortgage convertible 8 per cent gold bonds. The payment of these bonds is secured by a trust indenture which is a lien on property, including \$5,000,000 of applicant's Series "B" 7 per cent first and refunding mortgage sinking fund gold bonds.

In the trust indenture the company agrees that it will upon demand by the holder of the 8 per cent bonds, exchange Series "B" 7 per cent bonds on the basis of $102\frac{1}{2}$ and accrued interest for general mortgage 8 per cent bonds at par and accrued interest, paying the premium of $2\frac{1}{2}$ per cent in cash. Upon giving sixty days notice the company may redeem the 8 per cent bonds on any interest payment date at 105 and accrued interest. After the 8 per cent bonds are called for payment, they may be exchanged for Series "B" 7 per cent bonds on the basis of 105 and accrued interest, the company paying the 5 per cent premium in cash.

The record in this proceeding shows that it is the intention of the company to pay and redeem on August 1, 1922, the outstanding general mortgage convertible 8 per cent bonds. At this time it is not known to applicant how many of the 8 per cent bonds will be exchanged for Series "B" 7 per cent first and refunding bonds and what amount of the 8 per cent bonds must be paid in cash. E. H. Rollins and Sons have agreed to purchase at 96 and accrued interest \$2,000,000 of Series "C" 6 per cent first and refunding mortgage sinking fund gold bonds due February 1, 1952, and to purchase at the same price such additional Series "C" 6 per cent bonds as applicant may find it necessary to sell to pay in cash the 8 per cent bonds not exchanged for 7 per cent bonds.

At this time applicant asks permission to issue and sell \$2,000,000 of the Series "C" 6 per cent first and refunding bonds. It will file a supplemental petition in this proceeding if it becomes necessary for it to sell additional bonds to redeem the general mortgage 8 per cent bonds. The testimony clearly shows that the redemption of the general mortgage 8 per cent bonds is to the advantage of the company.

I herewith submit the following form of order:

ORDER.

Great Western Power Company of California having applied to the Railroad Commission for permission to issue at least \$2,000,000 of Series "C" 6 per cent first and refunding mortgage bonds due February 1, 1952, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of bonds herein authorized, is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Great Western Power Company of California be and it is hereby authorized to issue and sell, for cash, at not less than 96 per cent of their face value and accrued interest, \$2,000,000 of Series "C" 6 per cent first and refunding mortgage sinking fund gold bonds due February 1, 1952, and use the proceeds if necessary to pay general mortgage 8 per cent bonds called for redemption on August 1, 1922.

The authority herein granted is subject to further conditions as follows:

1. Applicant shall file with the Commission a copy of each and every statement or resolution filed with the trustee under the first and refunding mortgage, as a condition precedent to the certification of the \$2,000,000 of bonds or any part thereof by the trustee, such statements or resolutions to be filed with the Commission at the time they are filed with the trustee.

2. Any proceeds not used to pay general mortgage 8 per cent bonds shall be deposited in a special bank account or accounts and expended only for such purposes as the Railroad Commission may hereafter authorize.

3. Great Western Power Company of California shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

4. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee amounts to \$1,500.

5. The authority herein granted will apply only to such bonds as may be issued, sold and delivered on or before September 1, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-fifth day of April 1922.

DECISION No. 10357.

IN THE MATTER OF THE APPLICATION OF HENRY TONSOR AND L. F. TONSOR, ASKING PERMISSION TO SELL TO HARRY TURNER, AND HARRY TURNER ASKING PERMISSION TO PURCHASE CERTAIN PROPERTIES DESIGNATED HEREFTER, AND FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

Application No. 7601.

Decided April 25, 1922.

TRANSFER—CERTIFICATE—RATES—OVERBUILT SYSTEM.—In approving a transfer of a water utility and granting the purchaser a certificate of public convenience and necessity, the Commission held that as the system was installed to aid in the sale of real estate and is largely overbuilt, a rate which would yield a full return would be unreasonably high for the limited number of consumers served.

Henry Tonsor, in propria persona.

L. F. Tonsor, in propria persona.

Harry Turner, in propria persona.

BY THE COMMISSION.

OPINION.

A public hearing was held by Examiner Williams at Los Angeles upon the above entitled application for permission to transfer certain properties and for a certificate of public convenience and necessity covering the supply of water to Tract 4466, Los Angeles County, California.

This tract, consisting of 6½ acres, was subdivided into 13 lots by Henry Tonsor and L. F. Tonsor, who installed in connection therewith a plant for serving domestic and irrigation water.

At the present time there are four consumers receiving water from this system at a flat rate charge of \$1.50 per month. There is no other water utility serving this vicinity.

It appears from the testimony that Henry Tonsor and L. F. Tonsor have disposed of all their property in this tract and now propose to transfer the water system to Harry Turner for the sum of \$2,000. He, in turn, asks for certificate of public convenience and necessity, setting forth the following rates to be charged for water service:

FLAT RATES.

\$1.50 per month for months of October, November, December, January, February and March, and \$3 per month for April, May, June, July, August and September.

METERED RATES.

800 cubic feet or less, per month.....	\$1 50
From 800 to 5000 cubic feet, per 100 cubic feet.....	10
All in excess of 5000 cubic feet, per 100 cubic feet.....	05

The system was installed to aid in the sale of real estate, is largely overbuilt at the present time, and a rate which would fully compensate for the total investment in the water system would be unreasonably high for the limited number of consumers now served. However, the rates as set forth above are reasonable for this class of service, and will produce a revenue that will do substantial justice to both applicant and the consumers.

No one appeared in opposition to the application and it is apparent that it should be granted.

ORDER.

A public hearing having been held on the above entitled application, the matter having been submitted and being now ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require that authority be granted Harry Turner to purchase the water system more particularly described in the above entitled application, from Henry Tonsor and L. F. Tonsor, and that Harry Turner supply water to consumers in Tract 4466, Los Angeles County.

It is hereby ordered, that Harry Turner be and he is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order, and thereafter charge, the following schedule of rates for water delivered to consumers in Tract 4466, Los Angeles County:

FLAT RATES.

\$1.50 per month for months of October, November, December, January, February and March, and \$3 per month for April, May, June, July, August and September.

METERED RATES.

800 cubic feet or less, per month	\$1 50
From 800 to 5000 cubic feet, per 100 cubic feet	10
All in excess of 5000 cubic feet, per 100 cubic feet	05

It is hereby further ordered, that Harry Turner be and he is hereby directed to file with this Commission within thirty (30) days from the date of this order, rules and regulations to govern relations with consumers, such rules and regulations to become effective on their acceptance by the Commission.

Dated at San Francisco, California, this twenty-fifth day of April 1922.

DECISION No. 10360.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE ADDITIONAL FIRST MORTGAGE BONDS IN THE AMOUNT OF ONE MILLION FOUR HUNDRED NINETY-EIGHT THOUSAND FOUR HUNDRED SIXTEEN DOLLARS AND TO SELL SAME.

Application No. 7531.Decided April 25, 1922.

Leroy M. Edwards, for Applicant.BENEDICT, *Commissioner*.**FIRST SUPPLEMENTAL ORDER.**

Whereas, the Railroad Commission by Decision No. 10101, dated February 17, 1922, authorized Southern Counties Gas Company of California to issue \$1,498,416 face value of first mortgage 5½ per cent bonds due May 1, 1936, subject to the condition, among others, that \$1,132,416 of such bonds be not sold or otherwise disposed of by applicant except as authorized by the Commission; and

Whereas, applicant in a supplemental petition filed in the above entitled matter on April 21, 1922, reports that prior to March 31, 1922, it expended \$438,121.67 for permanent extensions, betterments and improvements to its existing plants and properties which has not been financed through the sale of bonds; and

Whereas, applicant asks permission to sell \$350,000 of said \$1,132,416 of bonds, at not less than 88 per cent of face value, plus accrued interest, to reimburse its treasury in part on account of these reported expenditures which are described in the supplemental application and in Exhibit "1" filed at the hearing held on the said supplemental application:

And, it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by such sale is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Southern Counties Gas Company of California be and it is hereby authorized to sell at not less than 88 per cent of face value, plus accrued interest, \$350,000 of the first mortgage 5½ per cent bonds which the Commission authorized to be issued by Decision No. 10101, dated February 17, 1922, and to use the proceeds to finance in part the cost of extensions, betterments and improvements installed prior to March 31, 1922, and referred to in this order, and through such financing pay current indebtedness.

It is hereby further ordered, that the order in Decision No. 10101, dated February 17, 1922, shall remain in full force and effect except as modified by this first supplemental order.

The foregoing first supplemental order is hereby approved and ordered filed as the first supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-fifth day of April 1922.

DECISION No. 10362.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING IT TO INCREASE ITS BONDED INDEBTEDNESS BY THE SUM OF ONE HUNDRED MILLION DOLLARS, TO PROVIDE SECURITY FOR THE SAME, TO ISSUE AND SELL BONDS OF SAID INDEBTEDNESS, WHEN AUTHORIZED, OF THE PAR VALUE OF FIVE MILLION DOLLARS, TO SELL INTERIM CERTIFICATES OF FIVE MILLION DOLLARS PAR VALUE PENDING THE AUTHORIZATION OF THE DEFINITIVE BONDS, AND TO SELL AND CONVEY CERTAIN PROPERTY; AND

IN THE MATTER OF THE APPLICATION OF EL DORADO POWER COMPANY FOR AN ORDER AUTHORIZING IT TO ISSUE STOCK, TO EXECUTE A MORTGAGE FOR THE PURPOSE OF SECURING THE ABOVE MENTIONED WESTERN STATES GAS AND ELECTRIC COMPANY BONDED INDEBTEDNESS, AND TO EXECUTE A LEASE OF ALL ITS PROPERTIES TO THE WESTERN STATES GAS AND ELECTRIC COMPANY.

Application No. 7551.

Decided April 25, 1922.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

On February 21, 1922, the Railroad Commission by Decision No. 10118 in the above entitled matter authorized Western States Gas and Electric Company to issue and sell, subject to the conditions of said decision, \$5,000,000 of bonds.

The Commission is now asked to make a further order in this proceeding authorizing El Dorado Power Company to issue \$99,500 par value of common stock in exchange for the properties and rights described in Exhibits A-1, A-2 and A-3 attached to the supplemental petition; authorizing Western States Gas and Electric Company to accept said capital stock in exchange for the properties and rights; to transfer to El Dorado Power Company the properties described in said Exhibits A-1, A-2, and A-3; to assign and transfer to El Dorado Power Company a water contract with the El Dorado Water Company, and thereafter authorizing El Dorado Power Company to reassign the contract to Western States Gas and Electric Company. Applicants

also ask authority to execute a lease substantially in the same form as the lease filed in this proceeding and marked Exhibit "B".

In brief, Western States Gas and Electric Company proposes to transfer to El Dorado Power Company the properties which it acquired from the Placerville Gold Mining Company under a deed dated April 23, 1916; a license obtained from the Federal Power Commission and a permit granted by the Division of Water Rights, Department of Public Works of the State of California. El Dorado Power Company intends to use the properties and rights in the construction of hydro-electric plants which will be leased to Western States Gas and Electric Company for a nominal rental. In this connection, it should be said that all of the outstanding stock of the El Dorado Power Company, except shares necessary to qualify directors, will be owned by the Western States Gas and Electric Company.

Under date of May 31, 1919, Western States Gas and Electric Company agreed to sell water to El Dorado Water Company. This contract is to be assigned to the El Dorado Power Company and thereafter reassigned to the Western States Gas and Electric Company. Financial reasons make the transfer of the properties and rights advisable. Through the execution of a deed of trust by the El Dorado Power Company and the execution of a similar instrument by the Western States Gas and Electric Company, the bonds issued by the latter company will be a first lien on the properties of El Dorado Power Company and a second lien on the properties of the Western States Gas and Electric Company.

The Commission has considered applicants' requests contained in the supplemental petition filed in the above entitled matter and is of the opinion that such requests should be granted; therefore,

It is hereby ordered, as follows:

1. El Dorado Power Company may issue and sell to Western States Gas and Electric Company on or before October 1, 1922, \$99,500 par value of its common capital stock in exchange for the properties and rights described in Exhibits A-1, A-2 and A-3 attached to the supplemental petition filed in this proceeding on April 18, 1922.

2. Western States Gas and Electric Company may accept said capital stock in exchange for said properties and rights.

3. Western States Gas and Electric Company may sell and transfer to the El Dorado Power Company the properties and rights described in said Exhibits A-1, A-2, and A-3.

4. Western States Gas and Electric Company may assign and transfer to El Dorado Power Company and thereafter El Dorado Power Company may reassign to Western States Gas and Electric Company that certain water contract entered into on May 31, 1919, between

Western States Gas and Electric Company and El Dorado Water Company, to which contract reference is made in the supplemental petition.

5. El Dorado Power Company and Western States Gas and Electric Company may enter into an agreement of lease in substantially the same form as the lease attached to the supplemental petition filed in this proceeding on April 18, 1922, and marked Exhibit "B".

6. El Dorado Power Company shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

Dated at San Francisco, California, this twenty-fifth day of April, 1922.

DECISION No. 10369.

IN THE MATTER OF THE APPLICATION OF LESTER-HUBERT COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE MOTOR TRUCK SERVICE BETWEEN GILROY AND SAN FRANCISCO.

Application No. 6102.

Decided April 25, 1922.

CERTIFICATE—CONTRACT CARRIER—ILLEGAL OPERATION.—The Commission reiterates its ruling in former decisions that the law does not contemplate a special class of carriers known as "contract carriers." Applicant is informed that he must apply for a certificate as a common carrier to have his application considered. As applicant was operating illegally he was ordered to discontinue such operation.

Sidney S. Johnson, for Applicant.

L. N. Bradshaw, for Southern Pacific Company, Protestant.

John Kelly, for American Railway Express Company, Protestant.

BY THE COMMISSION.

OPINION.

C. C. Lester, J. J. Hubert and John Fortado, doing business under the name of Lester-Hubert Company, have petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by them of an automobile truck service as a contract carrier of through freight between Gilroy and San Francisco.

A public hearing on this application was conducted before Examiner Satterwhite at Gilroy, the matter was submitted and is now ready for decision.

Applicants propose to charge rates and to operate one round trip a week, in accordance with Exhibits A and B, attached to said application, and to use the equipment described in Exhibit C, attached to said application.

The Southern Pacific Company and the American Railway Express Company opposed the granting of this application.

Applicants have conducted for some time a motor drayage business in, and in the vicinity of, Gilroy. The application at the time of its filing alleged that applicants were under contract with two cheese factories at Gilroy to transport their output to San Francisco, and also were under contract with four other mercantile firms at Gilroy to transport for them goods, wares and merchandise from San Francisco at least once a week.

The testimony shows that applicants, about a year and a half ago, commenced this service by transporting to San Francisco the cheese manufactured by these two Gilroy factories and by hauling from San Francisco various supplies for the Gilroy merchants mentioned in the application. Applicants have operated a pick-up and delivery service in connection with their operations, and it has been their practice to call on these Gilroy merchants, get their orders and purchase from San Francisco firms the supplies needed and thereby make their return haul profitable. At the hearing of this proceeding applicants presented in evidence other contracts, making now a total of nineteen which they have entered into with various Gilroy merchants and business men, agreeing to transport their goods and merchandise as freight in both directions between Gilroy and San Francisco. It appears that the north haul from Gilroy consists chiefly of the cheese from the above-mentioned factories, and that the return haul consists primarily of the supplies hauled from San Francisco to the Gilroy merchants. The record shows that all of the contracts which applicants have entered into are solely with the larger and leading merchants of Gilroy. There are many other small merchants engaged in business at Gilroy, but applicants hold no contracts with any of them and have no desire to extend their operations in order to serve other merchants or business men of Gilroy, save and except the nineteen with whom they hold contracts.

This Commission has recently expressed its views and laid down certain principles in other applications similar to the present one under consideration, and in its Decision No. 9903, on Application No. 7186, the Commission said:

A misapprehension seems to have arisen as to the intent of the amendment to the statute at the 1919 session of the legislature. It seems to be assumed that the intent was to provide, in addition to regulation of common carriers, regulation of a class which has come to be known as "contract carriers," operating under contracts for the carriage of goods, even though these contracts might, for illustration, be discriminatory in terms as between different contract shippers, or might result in limiting carrier's facilities to present equipment or to operation at his convenience, or enable him to confine his service to a limited selected class, thus discriminating between shippers, or in other manner to restrict the nature and therefore the value of his service to the community; and that all that is necessary to procure authority to act as a contract carrier is to procure and present such contracts. We are satisfied that such was not the intent of the legislature, but

rather to extend the regulatory powers of this Commission by the amendment, to all those "engaged in the business of transportation of persons or property over any public highway in this state between fixed termini, or over regular routes not operating exclusively within the limits of incorporated cities or towns," but excepting taxicabs, hotel busses or sightseeing busses. Public necessity and convenience rather than the private convenience or benefit of the carrier or shipper must still be shown. The method of proof is not changed by the amendment.

It has not yet been found necessary in the course of such regulation to separate into classes those placed by the legislature under the Commission's jurisdiction. Those desiring to carry special commodities, such as milk, and those desiring to engage in seasonal operations, such as carriage of fruits, can be authorized to operate as common carriers of those commodities under appropriate limitations or conditions.

Also, in its Decision No. 10065, on Application No. 7440, this Commission said:

In previous decisions this Commission has expressed the opinion that the establishment of a so-called contract hauler is not in the public interest in that such a transportation concern may then limit its service to such shippers as it desires to contract with. The establishment of such a class of haulers would permit an operator to contract and haul only for the larger and more profitable shippers in a given district and would permit him to refuse to contract or refuse to accept shipments from the smaller and less profitable shippers.

It is very clear, therefore, that the proposed service of these applicants as a contract carrier only for the merchants and business men named in the contracts presented in this proceeding fall squarely within the doctrine established by the foregoing decisions.

If applicants are of the opinion that the public necessity and convenience require the operation of their service as a common carrier of goods, wares and merchandise between Gilroy and San Francisco, it is suggested that they file, if they so desire, such an application with this Commission, which application will be given full and careful consideration.

Applicants admitted at the hearing that they had commenced their proposed operations as a contract carrier and had conducted them without securing any authority from this Commission, which of course is an unlawful operation, and we suggest that immediately upon the receipt of this order such operations be discontinued. We are of the opinion that said application must be denied.

ORDER.

A public hearing on the above entitled matter having been held, the matter being submitted and being ready now for decision;

It is hereby ordered, that said application be and the same is hereby denied.

Dated at San Francisco, California, this twenty-fifth day of April, 1922.

DECISION No. 10371.

IN THE MATTER OF THE APPLICATION OF NATOMAS WATER COMPANY, A CORPORATION, FOR LEAVE TO ISSUE A NOTE FOR THE PURPOSE OF REFUNDING OUTSTANDING NOTES OF SAID CORPORATION.

Application No. 7749.Decided April 25, 1922.

*Charles W. Slack and Edgar T. Zook, for Applicant.**MARTIN, Commissioner.***OPINION.**

Natomas Water Company asks permission to issue to Natomas Company of California its one-year six per cent promissory note in the principal amount of \$92,000 for the purpose of refunding twelve one-year six per cent notes of the aggregate face value of \$92,000 that are now due and payable.

By Decision No. 4224, dated April 3, 1917 (Vol. 13, Opinions and Orders of the Railroad Commission of California, page 8), the Railroad Commission authorized applicant to issue to Natomas Company of California, \$92,000 face value of one-year six per cent notes to refund notes of a like amount that had previously been issued to secure funds to pay for additions and betterments.

Pursuant to Decision No. 4224, applicant issued \$56,000 of notes on April 19, 1917, \$12,000 on January 28, 1918, and \$24,000 on March 21, 1919. None of these notes, aggregating \$92,000, have been paid. The application shows that the company has paid the interest on the notes but has not paid any of the principal. It desires to refund them by issuing a new note for \$92,000, such note to be payable one year after date with interest at the rate of six per cent per annum. It appears that Natomas Company of California is willing to accept a renewal note in payment of those now outstanding.

Natomas Water Company was organized on or about March 18, 1912, with an authorized capital stock of \$5,000,000 divided into 50,000 shares of the par value of \$100 each. Subsequently on July 29, 1918, the capital stock was reduced to \$1,000,000 divided into 10,000 shares of the par value of \$100 each. All of the authorized capital stock is outstanding, and all, except shares necessary to qualify directors, is reported to be owned by Natomas Company of California. The company has no bonded indebtedness.

I herewith submit the following form of order:

ORDER.

Natomas Water Company, having applied to the Railroad Commission for permission to issue a note, a public hearing having been held and

the Railroad Commission being of the opinion that applicant's request should be granted and that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose specified herein and that the expenditures for such purpose are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Natomas Water Company be and it is hereby authorized to issue a one-year six per cent promissory note in the principal amount of \$92,000 for the purpose of refunding the outstanding notes described in this application and referred to in the preceding opinion.

The authority herein granted is subject to the following conditions:

1. Applicant shall keep such record of the issue of the note herein authorized and of the disposition of the proceeds as will enable it to file with the Railroad Commission on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

2. The authority herein granted shall apply only to such note as may be issued on or before August 31, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-fifth day of April, 1922.

DECISION No. 10372.

IN THE MATTER OF THE APPLICATION OF THE SUTTER-BUTTE CANAL COMPANY, A CORPORATION, FOR AN INCREASE IN RATES.

Application No. 7317.

Decided April 26, 1922.

RATES.—CONTRACTS. INTERPRETATION OF.—JURISDICTION.—The claim of a group of consumers that they are holders of private contracts entitling them to receive water at specified rates, is not allowed. Applicant, Sutter-Butte Canal Company, it is held was organized as and always has been a public utility and contracts are subject to the jurisdiction of the Commission. This, it is held, however, does not abrogate the contracts in other particulars, such as the acreage charge for water.

Derlin and Brookman, by *Douglas Brookman* and *Henry Ingram*, for Applicant.

I. J. Truman, Jr., for Sutter Water Users' Association.

F. S. Brittain, for Live Oak Water Users' Association; Butte County Farm Bureau; California Farm Federation; *C. W. Thresher*, *W. G. Coppernoll*, *L. E. Wallace* et al.

George F. Jones, for Butte County Water Users' Association and *A. J. Lofgren*.

Thomas D. Reed, for *S. A. Mealey* et al., being water users served by Gridley Colony Ditch No. 1.

*King and King, by Mrs. J. R. King, for J. R. King, J. P. Hopkins et ux., Robert A. Room et ux., and W. E. Gibson,
J. M. McGee, in propria persona.*
MARTIN, Commissioner.

OPINION.

Sutter-Butte Canal Company, an incorporated public utility engaged in the business of furnishing water for irrigation purposes to certain areas in Butte and Sutter counties, California, makes application for an increase in rates.

The application alleges in effect that the rate schedule for this utility at present in effect was established by Decision No. 5227 of this Commission, rendered March 25, 1918; that said rates were intended to produce an annual revenue sufficient to meet the annual charges of the utility as set out in said decision and allowed as reasonable as of that date; that since said decision the actual maintenance and operation expenses and the actual depreciation upon the physical properties have increased considerably, also, that there has been an added expenditure in enlargements, extensions and improvements to the physical properties, totalling \$1,071,452.70 as of October 1, 1921. By reason of these facts, it is claimed that the rates at present in effect are non-compensatory and inadequate to yield the revenue to which applicant is entitled to meet the necessary annual charges. Applicant asks for an order of this Commission authorizing an increase in rates.

Public hearings were held at Gridley, of which all interested parties were duly notified and given an opportunity to appear and be heard. At the hearing the records and files of the previous proceedings before the Commission involving this utility were admitted in evidence as far as relevant to the issues in this proceeding.

Preliminary to a discussion of the reasonableness of the rates, we will refer briefly to other phases of the proceeding concerning jurisdiction, interpretation of contracts, and similar matters, developed at the hearing.

A certain group of consumers claimed to be the holders of private contracts entitling them to receive water at specified rates different from those fixed by the Commission. It was urged that as to the water alleged to be covered by these contracts, the applicant is not a public utility and the rates fixed by such contracts can not be changed.

This contention can not be upheld. The Sutter-Butte Canal Company "was organized as, and has always been, a public utility company." *Butte Co. Water Users' Ass'n. vs. Railroad Commission*, 61 Cal. Dec. 317.

In addition to the evidence relative to this question adduced at former hearings before the Commission (and which it was stipulated might be considered here) it was shown that prior to the execution of

the contracts in question, applicant exercised the power of eminent domain and acquired, by condemnation, the right of way for one of its main canals. It is from this canal that these protestants receive their water. Furthermore, it appears that all consumers have paid the increase in rates granted applicant by the Commission on March 25, 1918.

Another group of consumers holding contracts similar to those just referred to take a totally different position and urge that as to them, applicant is a public utility and the former action of the Commission, fixing rates different from those specified in their contracts, has resulted in the complete abrogation of these contracts in all particulars. We think this contention is also unsound. It is well settled in this state that contracts of this sort are subject to revision. To the extent that the rates for water are changed by the orders of the Railroad Commission these contracts are modified or reformed but not wholly superseded or abrogated. Other provisions of such contracts may remain in full force and effect. *Southern Pacific Co. vs. Spring Valley Water Co.*, 173 Cal. 298.

The reason these consumers desire that their contracts be completely annulled is that the contracts contain a provision for continuous service of water for the entire acreage for which water was contracted, irrespective of whether water is or is not actually used on the lands covered by the contracts. In other words, they are required by their contracts to pay a certain amount per acre per year even though part of the acreage may remain uncultivated, and no water used. Under these contracts, on the one hand the company must hold itself in readiness to serve the entire acreage covered by the contracts, and hence is not free to dispose of, to any one else, the water necessary to do this, and on the other hand the consumers are required to pay for the full acreage involved irrespective of whether the entire acreage be irrigated in each year.

In this connection, it is urged that in the Decision of the Commission, No. 5277, 15 O. and O. R. R. C. 425-450, the provision requiring payment for acreage on which water was not actually used was set aside. However, we think a reading of the entire opinion in that case will not bear out this contention. The order itself provided for three distinct classes of rates:

1. A flat rate for consumers not holding contracts.
2. A measured rate to apply where meters were installed.
3. A flat rate for holders of contracts.

The order clearly shows that the contract holders were treated as a separate class of consumers and the Commission deemed that, except as to the change in rates, the contracts remained in full force and effect.

If the entire system were metered, as has been recommended by the Commission, and all water was paid for on a measured basis, a situation might be presented which would justify the elimination of the annual acreage charge on unirrigated lands. Under present conditions, however, we believe that this charge is justified, and the Commission will not, therefore, prescribe a rate which will supersede this provision of the contract.

Proceeding to a consideration on the merits of the application for increased rates, a brief review and analysis of facts will be made to determine whether the present rates are unreasonable, and if so, what increase should be authorized.

Applicant operates a canal system for the irrigation of a large acreage in Butte and Sutter counties. With present facilities, service can be given to approximately 75,000 acres. Water is obtained primarily by diversion from Feather River, but this is supplemented by pumped water from a pumping plant located on the same stream. Including both main canal and laterals, there are at present 227.40 miles of canals in operation. The system is growing, however, and extensions are being made from time to time for the purpose of extending service to additional acreage. There are approximately 80,000 acres of irrigable land not under the present canal system but to which water, in so far as the available supply permits, may be furnished by the company in the future through further extensions of the system. Further discussion of properties included in the canal system and of the rate base to be employed in this proceeding will be deferred until the subjects of operating costs and revenues have been reviewed.

The maintenance and operation expenses of the past four years, exclusive of depreciation allowance, are shown by the following Table 1. This data has been compiled from the annual reports of this utility to the Commission, with the exception of that for 1921, which shows 10 months actual and 2 months estimated expenses:

TABLE NO. 1.

Items	1918	1919	1920	1921
Pumping expenses.....	\$10,261 08	\$7,894 03	\$25,296 65	\$22,332 00
Distribution expenses.....	59,549 95	41,763 96	69,728 69	58,926 00
Commercial expenses.....	1,104 72	1,440 96	2,576 79	3,835 00
General expenses.....	20,920 96	21,056 50	51,137 53	55,155 00
Taxes	8,118 78	11,014 29	14,893 25	14,000 00
Fund for extraordinary repairs		3,000 00	3,000 00	3,000 00
Total operating expenses	\$89,955 49	\$89,169 74	\$169,632 91	\$157,248 00

It is noted that the operating expenses for the years 1920 and 1921 increased greatly over previous years. This fact is accounted for mainly by increased operating costs for pumping and distribution incident to the completion of the Sutter County extension, to which reference will be made later, together with the extraordinary expenses incurred by reason of the 1920 water shortage and those for settlement of damage claims for canal seepage.

For the purpose of determining what, if any, reduction may be anticipated in operating expenses for the ensuing year and thereafter, a further segregation and comparison has been made of certain extraordinary expenses incurred during the years 1919 and 1921. This is set forth in the following table, which is compiled from details included in the items set forth in Table 1 above:

TABLE NO. 2.

Items	1919	1920	1921
Fund—Extraordinary repairs, flood damage	\$3,000 00	\$3,000 00	\$3,000 00
Damage claims due to canal seepage, etc.	6,688 00	28,499 00	16,999 00
Legal expense.....	3,171 00	5,255 00	11,287 00
Railroad Commission expense.....	342 00	2,562 00	1,688 00
1920 water shortage expense.....		22,900 00	
Extraordinary clearing and repairing canals		19,000 00	
Totals.....	\$13,211 00	\$81,216 00	\$42,974 00

It is interesting to note the comparison between the totals for extraordinary expenses as shown by the foregoing table for the years 1919, 1920 and 1921, with the totals of all operating expenses incurred by the company over the same years as set forth in Table 1 above.

TABLE NO. 3.

	1919	1920	1921
Totals all operating expenses (Table 1) ..	\$89,169 74	\$169,632 91	\$157,248 00
Totals extraordinary expenses (Table 2)	13,211 00	81,216 00	42,974 00
Difference.....	\$75,959 74	\$88,417 91	\$114,274 00

It is apparent that a very large part of the operating expenses in the past two years have been due to expenses incurred outside of the normal costs of operation of an irrigation system such as that under consideration. Undoubtedly, some extraordinary repairs to canals and other items of unforeseen expense must be anticipated. An example of this kind is the item of \$3,000 per annum set forth in the above

tables as a fund for extraordinary repairs. This amount was allowed by the Commission's Decision No. 5227, to create a fund to cover damages to the system from periodical flooding of the river. The evidence shows, however, that since the establishment of this fund in 1919, only \$3,134 has actually been charged against it. All of the foregoing facts and circumstances have been taken into consideration in the Commission's determination of estimated operating costs for the ensuing year.

An estimate of the maintenance and operation expenses for 1922 was submitted by applicant in considerable detail. Protestants questioned the reasonableness of the total estimate thus submitted, dwelling particularly on the amounts for various extraordinary expenses which they contend should not, under normal conditions, recur annually to that extent and also on the large operating force and pay roll as set out. Mr. R. W. Hawley, a consulting hydraulic engineer, appearing for the protestants, included in his report submitted in evidence an estimate of the cost of operation for 1922, which he deems a proper normal expenditure at the prices to be anticipated.

Following is a comparative tabulation summarizing said estimated maintenance and operation expenses for 1922:

TABLE NO. 4.

Item	Applicant's estimate for 1922	R. W. Hawley's estimate for 1922	Reduction by R. W. Hawley
Pumping expense—			
Labor, materials and power.....	\$20,713 00	\$25,000 00	-----
Distribution expense—			
Labor, materials and repairs to dam...	60,128 00	33,640 00	26,488 00
General office and commercial expense...	24,140 00	13,880 00	10,260 00
Miscellaneous expense—			
Taxes	14,500 00	15,000 00	-----
Insurance	3,600 00	2,500 00	500 00
Legal expense.....	7,120 00	2,500 00	4,620 00
Railroad Commission expense.....	2,182 00	1,000 00	1,182 00
Extraordinary repairs (flood damage)	7,500 00	5,000 00	2,500 00
Damages from canal seepage.....	12,000 00	5,000 00	7,000 00
Clearing sand, silt, etc., from canals....	5,000 00	-----	5,000 00
Water shortage	7,000 00	-----	7,000 00
Totals.....	\$163,283 00	\$103,520 00	*\$59,760 00

*Net.

An analysis of the details of above items shows that Mr. Hawley's reductions from applicant's estimates include approximately \$18,600 on the items of wages and salaries, and \$21,500 on the items set out by applicant as costs due to water shortage, damage claims, and the whole-sale clearing of canals by steam shovel.

Applicant based the above estimates for the future largely upon operating conditions obtaining and expenditures actually incurred in 1921. However, the amounts as set out for certain extraordinary expenses were based on applicant's opinion as to their probable recurrence annually or periodically, from a consideration of the expenditures of this character encountered the past few years.

As evidenced in the record, this utility has, during the past few years, passed through a period of unusual activity in construction and repairs and renewals of its system when prices of labor and materials were abnormally high. This fact, together with the recent abnormal water shortage and other extraordinary expenses above pointed out, have contributed largely to the increase in operating expenses. The company is now emerging from this period and, taking into consideration the apparent downward trend of labor and material costs, together with possible economies in operation and elimination or reduction of certain extraordinary expenses which the recently reorganized management may effect, it is reasonable to expect in the future a material reduction in total operation expenses over those for 1921, as set out above. However, it appears that such an immediate and drastic reduction as that indicated by Mr. Hawley's estimate above could only be put into effect at the expense of probable deferred maintenance and unsatisfactory service to consumers. Such economies at this time would undoubtedly have to be offset by future increases in expenditures.

The expenses of a periodical wholesale clearing of canals by steam shovel will no doubt be largely offset by a reduction in the labor cost of normal annual maintenance of canals, and the Sunset pump plant installed on the Feather River in 1921 will enable a regulation of the flow of water according to demand in the different canal systems, and should thereby effect a reduction in the water shortage expense as heretofore experienced. Although no damaging floods have occurred in the Feather River since 1918, past experience shows that they may be expected periodically. This Commission's Decision No. 5227 (*supra*) allowed \$3,000 annually to cover damages to the system from this source. Furthermore, the extensive system of drainage ditches installed by the reclamation districts in this region and now nearing completion should afford certain relief to this system from such damages.

Future legal expenses and allowance for damage claims resulting from seepage and breaks in canal banks are clearly matters which can not be accurately determined. The Commission has allowed a reasonable sum for these items.

After due consideration of all the circumstances, and particularly the more important factors set out above, it is concluded that \$133,000

is a reasonable sum to include in the annual charges for future maintenance and operation. Allowance has been made therein for an annual sum to meet the reasonable recurrence of such extraordinary or abnormal expenses as must be expected in the operation of this system, and also for the amortization of the 1916 Railroad Commission expense as allowed in this Commission's Decision No. 5227.

Depreciation.

Applicant's estimate for a depreciation allowance is \$24,183 computed on the 6 per cent sinking fund basis, with an additional \$5,000 for obsolescence. Mr. Hawley arrives at a total of \$16,023 for this item, including \$5,000 for obsolescence, using the same basis and assuming that canal earth work is undepreciable.

The Commission's engineer submits a total of \$18,650 also computed on the sinking fund basis.

Analyzing the detailed computations and assumptions made by the Commission's engineer, and comparing with known experience, it appears that his total reasonably approximates the proper annuity to provide a fund for replacement on the system as parts become worn out or are replaced by obsolescence.

The sum \$19,000 will be included in the annual charges for a depreciation annuity.

Revenues.

Following is a comparison of the operating revenues of the past four years and the respective acreage irrigated to rice and other crops, as compiled from the record:

Item	1918		1919		1920		1921	
	Acre	Revenue	Acre	Revenue	Acre	Revenue	Acre	Revenue
Rice irrigated	21,000	\$127,383 00	21,000	\$136,272 00	27,000	\$179,004 00	28,750	\$192,077 00
Other crops irrigated	19,908	40,117 00	21,934	44,228 00	24,979	50,156 00	21,957	42,123 00
Lands charged, but not irrigated	2,000	4,000 00	3,000	6,000 00	2,700	5,400 00	5,900	11,800 00
Totals	42,908	\$171,500 00	45,934	\$186,500 00	54,679	\$234,560 00	56,607	\$248,000 00

The above table shows that the irrigation of rice has constituted the main source of income of this utility, and that approximately 55 per cent of the total acreage irrigated in 1921 was for rice. Experience in this area shows that land is usually planted to rice for three consecutive years, when it is necessary to rest this land or rotate the crops for one or more years in order to eradicate water grass and other weeds. Thus, the income of the company is materially affected and this factor must be given consideration in estimates of future revenue from rice irrigation.

Other factors have a material bearing upon the estimated future revenues of applicant. The completion of the Sutter County extension canals brought in an additional rice acreage of 4320 acres in 1920, and 12,993 acres in 1921. A comparison of 1919 total rice acreage with that of succeeding years shows that by reason of old rice acreage being rested, the additional acreage on the Sutter County extension only increased the total for 1920 by 2680 acres, while that of 1921 shows a decrease of 5243 acres. All of the acreage served by the extension is under contract to use water for rice irrigation for a period of three years. It is probable that this land will ultimately be planted to trees and other crops to which the soil is more adaptable than rice culture. This will materially lessen the use of water and diminish the revenues of applicant.

In view of all the circumstances, it is reasonable to conclude that the acreage irrigated and the revenues received in 1921 be made the basis for computation of rates for the immediate future. We, therefore, adopt as an estimated revenue the sum of \$248,000, if present rates continue in effect.

Rate base.

A complete valuation of the properties of applicant was made by the Commission in a prior proceeding, Application No. 2963, Decision No. 5227, as a result of which the sum of \$871,764 was fixed as the rate base on January 1, 1918. Subsequent thereto certain extensions and additions have been made and some portions of the property included in the prior valuation have been retired and abandoned. In bringing the valuation down to date, appraisals of the physical properties of applicant, which were used and useful, as of October 31, 1921, were submitted by applicant and by H. A. Noble, one of the Commission's hydraulic engineers.

The following is a comparative summary of the appraisals as submitted:

Item	By commission's engineers	By applicant
Rate base as of January 1, 1918, as fixed by Commission's Decision No. 5227 (supra).....	\$871,764 00	\$871,764 00
Deduct retirements and abandonments.....	31,176 62	16,612 00
Used and useful property remaining.....	\$840,587 38	\$855,122 00
Additions and betterments subsequent to January 1, 1918.....	1,073,699 20	1,073,699 30
Interest during construction (1918 to 1921).....		64,421 96
Totals as of October 31, 1921.....	\$1,914,286 58	\$1,993,243 26

The appraisal made by the Commission's engineers is included in a report which was filed in evidence (Commission's Exhibit No. 1), which report was compiled from data obtained from a field investigation and examination of the records of the utility. In so far as the figures are based upon accounts and records of the company, a careful check has been made by the Commission and the accuracy of the figures sufficiently established.

Included in the item of additions and betterments subsequent to January 1, 1918, is the cost of constructing the Sutter County extension which requires more detailed analysis. The negotiations for this extension began in 1918. At that time, as a result of unusually large profits made from rice growing, there was a great desire on the part of certain farmers in Sutter County to have an extension built which would irrigate for rice culture about 14,400 additional acreage. The proposed extension involved immediate construction work and expenditures beyond any normal or reasonable development of the system within so short a period. This is apparent from the fact that out of a total of 227.40 miles of canal system, 72.36 miles represent the Sutter County extension. However, after some negotiations between the company and the prospective consumers, an agreement was reached and contracts entered into, whereby the immediate construction of the extension was undertaken by the company, the farmers agreeing to use a certain amount of water for irrigation of rice for three years and to advance to the company the total cost of the construction, such sums advanced, to be thereafter refunded in annual installments, in accordance with the rules and regulations of the company. Due to many unforeseen circumstances, the cost of the extension far exceeded the first estimates, and after the work had been partially completed supplemental contracts were entered into, modifying those originally executed between the company and its consumers and providing for an outright donation by the land owners to the company of \$20 per acre for the gross acreage to be served. The amount thus donated aggregated \$286,000. The work was rushed as much as possible notwithstanding higher costs incidental to abnormal war conditions and lack of preparation and organization of the company's forces for so large an undertaking. As a result of this and other circumstances, the total cost to the company, including interest during construction, was \$816,200. This approximates \$56 per acre for the gross acreage served.

In our opinion, the cost of the Sutter County extension was considerably more than normal, by reason of the urgent character of the work to meet the pressing demands for rice irrigation. We do not believe that this cost is a correct measure of the value of the property

constructed in so far as rate fixing is concerned. As above noted, however, the consumers donated the sum of \$286,000 for the purpose of securing the immediate completion of the extension. For the purposes of this decision, therefore, we will not include in the allowance of value for the Sutter County extension the amount donated by the consumers. A further deduction from the total cost of the extension is proper on account of expenditures for certain portions of the work which, by reason of improper construction or change of plans, were subsequently abandoned and are, therefore, not now useful in the operation of the system. Included in this deduction is \$10,400 expended for excavation and structures on Live Oak Channel, and \$4,200 for an uncompleted ditch in Sutter County, and an allowance of \$1,500 on the estimated cost of substituting temporary wooden bridges for certain concrete siphons, constructed under highways and later found to be inadequate. In view of the above deductions, we will adopt, as a reasonable allowance of value for the Sutter County extension, the sum of \$464,624, to which will be added the sum of \$27,877 for interest, during construction, on funds provided by the company for this work, making a total allowance for this extension of \$494,501.

It may be noted that the sum allowed for the Sutter County extension includes \$115,120 for the Sunset pumping plant on the Feather River, which is directly chargeable to this work, and approximately \$86,000 indirectly chargeable to the project by reason of necessary enlargement of the main canal.

The sum of \$31,176.62, shown in Mr. Noble's appraisal under the item of retirements and abandonments, is adopted as the correct figure instead of that shown by applicant, which omitted certain abandonments.

Summarizing the valuations and necessary allowances, we obtain a rate base as shown by the following table:

TABLE NO. 5.

Value of system as shown by rate base of January 1, 1918 (Decision 5227)	\$871,764 00	
Deductions for retirements and abandonments.....	31,176 62	\$840,587 38
Additions and betterments subsequent to January 1, 1918.....	\$768,322 30	
Interest during construction (1918 to 1921).....	46,099 33	814,421 63
Total to be used as rate base.....		\$1,655,000 01

The rates at present in effect produce an annual gross income of \$248,000. Deducting from this the necessary allowances for maintenance and operation, taxes and sinking fund annuity, there remains as net revenue available for fair return on the property \$96,000. This sum amounts to 5.8 per cent on the rate base above shown. While it is true that this utility is still in process of development, we believe the

company is reasonably entitled to a greater rate of return than that which it now receives. An increase in the rates will, therefore, be allowed in an amount sufficient, in our judgment, to enable the applicant, under continuing conditions of development, the return to which it is entitled.

Experience of all extensive irrigation projects in this state has shown that there is a period of development during which the revenues from water sales are insufficient in many cases to meet even maintenance and operation expenses. In the case of the Sutter-Butte Canal Company the development has been exceptionally rapid, due to the introduction of rice culture, and with the normal increase in acreage irrigated, it is apparently approaching the time when, under reasonable rates charged to its consumers, it will obtain a revenue to yield an adequate and full return on its investment.

It will be noted that the general form of the rate schedule herein established is the same as that at present in effect, providing for three classes of rates, namely:

1. Flat rates for consumers not holding contracts.
2. Measured rates to apply where meters are installed.
3. Flat and measured rates for certain contract holders.

The advantage and advisability of a measured system of delivery is clearly set out in Decision No. 5226 of this Commission, wherein the rates at present in effect were established. However, it was not deemed advisable, under present conditions and with the present development of the system, to alter, in this proceeding, the form of the rate schedule or its application to contract holders, with one exception: The consumers on the Sutter County extension, who are obligated under special contract to use water for rice irrigation for the period of three years, will be charged on the non-contract schedule. This appears fair and equitable, since these contracts were entered into in good faith for the primary purpose of securing immediate service of water, in consideration of which large donations of money were made by the farmers, and the company agreed to supply the water at the rate stated.

Some 60 consumers of the company are served through their mutually owned and operated system of ditches, known as Gridley Colony Ditch No. 1, and its laterals. This system was formerly a part of that operated by Gridley Land and Irrigation Company, all the remaining ditches of that company having been acquired by Sutter-Butte Canal Company about 1918. All of these consumers are owners of contracts which have entitled them to the preferential initial payment rate. They have, therefore, in a measure been compensated for the additional cost of water to them, due to maintenance, at their own expense, of their privately owned ditches. It is not deemed advisable in this proceeding

to set out for these consumers a reduced rate other than that provided in Schedule No. III in the accompanying order. The advisability of the Sutter-Butte Canal Company acquiring and operating this privately owned portion of the ditch system is apparent, and it is recommended that the company and these consumers endeavor, by negotiations, to reach equitable terms for a transfer of the ownership of these ditches.

I herewith submit the following form of order:

ORDER.

The Sutter-Butte Canal Company having made application to this Commission as above entitled, public hearings having been held, briefs having been filed subsequent to the hearings and the Commission being fully apprised in the premises:

It is hereby found as a fact that the present schedule of rates of the Sutter-Butte Canal Company, in so far as it differs from the schedule herein established, is unjust and unreasonable, and that the schedule of rates herein established constitutes just and reasonable rates to be charged by said company for water.

And basing its order upon the foregoing findings of fact and the other statements of fact contained in the opinion preceeding this order;

It is hereby ordered, by the Railroad Commission of the State of California, that Sutter-Butte Canal Company be and it is hereby authorized and directed to file with the Railroad Commission within five (5) days from the effective date of this order the following schedules of rates for irrigation water, said schedules of rates to be effective for service rendered for the 1922 irrigation season and thereafter:

SCHEDULE NO. I—FLAT RATES.

Rice irrigation.

First year:

- \$1.00 per acre to accompany application.
- \$3.40 per acre, payable on or before February 1, plus 70 cents per acre if water is pumped.
- \$3.40 per acre, payable on or before July 1, plus 70 cents per acre if water is pumped.

Subsequent years during continuance of service:

- \$4.40 per acre, payable on or before February 1 of each year, plus 70 cents per acre if water is pumped.
- \$3.40 per acre, payable on or before July 1 of each year, plus 70 cents per acre if water is pumped.

Grain (other than rice) irrigation.

- 60 cents per acre to accompany application, plus pumping charge at rate of 25 cents per acre-foot if water is pumped.
- 60 cents per acre for second and each subsequent irrigation during continuance of service, payable before each irrigation, plus last mentioned pumping charge if water is pumped.

All other crops.

First year:

50 cents per acre to accompany application.

\$1.15 per acre, payable on or before February 1, plus 35 cents per acre if water is pumped.

\$1.15 per acre, payable on or before July 1, plus 35 cents per acre if water is pumped.

Subsequent years during continuance of service:

\$1.65 per acre, payable on or before February 1 of each year, plus 35 cents per acre if water is pumped.

\$1.15 per acre, payable on or before July 1 of each year, plus 35 cents per acre if water is pumped.

For summer plowing or for sprouting water grass, weeds, etc., in order to eradicate same, and not for purpose of raising crops in same season or year:

\$1.50 per acre (first flooding) to accompany application, plus pumping charge at rate of 25 cents per acre-foot if water is pumped.

60 cents per acre for second and each subsequent flooding in the same year for same purpose, payable before each flooding, plus last mentioned pumping charge if water is pumped.

SCHEDULE NO. II—MEASURED RATES.

Rice irrigation.

First year:

\$1.00 per acre to accompany application.

\$3.15 per acre for 3 acre-feet or less per acre, payable on or before February 1, plus pumping charge at rate of 25 cents per acre-foot if water is pumped.

For water used in excess of 3 acre-feet per acre additional payment to be made therefor at rate of \$1.30 per acre-foot, plus pumping charge at rate of 25 cents per acre-foot if water is pumped; same to be paid at end of month of use.

Subsequent years during continuance of service:

\$4.15 per acre for 3 acre-feet or less per acre, payable on or before February 1, of each year, plus pumping charge at rate of 25 cents per acre-foot if water is pumped.

For water used in excess of 3 acre-feet per acre additional payment to be made therefor at rate of \$1.30 per acre-foot, plus pumping charge at rate of 25 cents per acre-foot if water is pumped, same to be paid at end of month of use.

Grain (other than rice) irrigation.

90 cents per acre for $\frac{1}{2}$ acre-foot or less per acre to accompany application, plus pumping charge at rate of 25 cents per acre-foot if water is pumped.

After first year and during continuance of service, above minimum rate, plus last mentioned pumping charge if water is pumped, is payable on or before February 1 of each year.

For water used in excess of $\frac{1}{2}$ acre-foot per acre, additional payment to be made therefor at rate of \$1.30 per acre-foot, plus pumping charge at rate of 25 cents per acre-foot if water is pumped; same to be paid at end of month of use.

All other crops.

First year:

50 cents per acre to accompany application.

\$1.80 per acre for $1\frac{1}{2}$ acre-feet or less per acre payable on or before February 1, plus pumping charge at rate of 25 cents per acre-foot if water is pumped.

For water used in excess of $1\frac{1}{2}$ acre-feet per acre additional payment to be made therefor at the rate of \$1.30 per acre-foot, plus pumping charge at rate of 25 cents per acre-foot if water is pumped; same to be paid at end of month of use.

Subsequent years during continuance of service:

\$2.30 per acre for $1\frac{1}{2}$ acre-feet or less per acre, payable on or before February 1 of each year, plus pumping charge at rate of 25 cents per acre-foot if water is pumped.

For water used in excess of $1\frac{1}{2}$ acre-feet per acre, additional payment to be made therefor at rate of \$1.30 per acre foot, plus pumping charge at rate of 25 cents per acre-foot if water is pumped; same to be paid at end of month of use.

For summer plowing, or for sprouting water grass, weeds, etc., in order to eradicate same and not for purpose of raising crops in same season or year:

90 cents per acre for $\frac{1}{4}$ acre-foot or less per acre to accompany application, plus pumping charge at rate of 25 cents per acre-foot if water is pumped.

For water used in excess of $\frac{1}{4}$ acre-foot per acre, additional payment to be made therefor at rate of \$1.30 per acre-foot, plus pumping charge at rate of 25 cents per acre-foot if water is pumped; same to be paid at end of month of use.

SCHEDULE NO. III—INITIAL PAYMENT RATES.

\$10.00 per acre to accompany application, unless otherwise provided by agreement.

Rice irrigation, flat rates.

\$2.90 per acre payable on or before February 1 of each year during continuance of service, plus 70 cents per acre if water is pumped.

\$2.90 per acre payable on or before July 1 of each year during continuance of service, plus 70 cents per acre if water is pumped.

Rice irrigation, measured rates.

\$3.20 per acre for 3 acre-feet or less per acre, payable on or before February 1 of each year during continuance of service, plus pumping charge at rate of 25 cents per acre-foot if water is pumped.

For water used in excess of 3 acre-feet per acre, additional payment to be made therefor at rate of \$1.30 per acre-foot, plus pumping charge at rate of 25 cents per acre-foot if water is pumped; same to be paid at end of month of use.

All other crops, flat rates.

\$1.15 per acre payable on or before February 1 of each year during continuance of service, plus 30 cents per acre if water is pumped.

\$1.15 per acre payable on or before July 1 of each year during continuance of service plus 30 cents per acre if water is pumped.

All other crops, measured rates.

\$1.90 per acre for $1\frac{1}{2}$ acre-feet or less per acre, payable on or before February 1 of each year during continuance of service, plus pumping charge at rate of 25 cents per acre-foot if water is pumped.

For water used in excess of $1\frac{1}{2}$ acre-feet per acre, additional payment to be made therefor at the rate of \$1.30 per acre-foot, plus pumping charge at rate of 25 cents per acre-foot if water is pumped; same to be paid at end of month of use.

The effective date of this order is hereby fixed and designated as the tenth day of May, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California this twenty-sixth day of April, 1922.

DECISION No. 10378.

IN THE MATTER OF THE APPLICATION OF HARBOR CITY WATER COMPANY, FOR AN ORDER AUTHORIZING THE TRANSFER OF PROPERTIES AND THE ISSUANCE OF CAPITAL STOCK.

Application No. 7307.

Decided April 27, 1922.

TRANSFER—STOCK ISSUE—ORIGINAL COST.—It is held that applicant company should not be authorized to issue stock in excess of the original cost of the utility, the transfer of which is approved.

Walter E. Burke, for Applicant.

BY THE COMMISSION.

OPINION.

In this application the Railroad Commission is asked to make an order authorizing Harbor City Water Company to purchase the water system at Harbor Industrial City, Los Angeles County, and to issue \$92,620 of its capital stock. The present owners of the system have joined in the application.

A public hearing was held before Examiner W. R. Williams in Los Angeles.

It appears that the properties which it is proposed to transfer are at present held by Los Angeles Trust and Savings Bank as owner of record and trustee for B. O. Miller, W. I. Hollingsworth, George W. Walker, Richard Lacy and W. C. Price. Testimony herein shows that the system, which serves about 250 consumers, was started about 1910 as an adjunct to a real estate development at Harbor Industrial City, and that as the community grew and additional land was sold, extensions, additions and betterments were made to the water properties from time to time. It appears that the water business, since its inception, has been operated in conjunction with the land business of the owners. They have concluded to separate the public utility business from the non-public utility land business, and have caused Harbor City Water Company to be organized for the purpose of acquiring and operating the system as a public utility.

The articles of incorporation of Harbor City Water Company show that it was formed on or about July 26, 1920, with an authorized capital stock of \$100,000 divided into 10,000 shares of the par value of \$10 each, of which it now asks permission to issue 9262 shares. The company proposes to sell 5 shares of its stock at par to B. O. Miller, W. I. Hollingsworth, George W. Walker, Richard Lacy and W. C. Price, to qualify them as directors, and to deliver 9257 shares in full payment of the properties. Of the 9257 shares, it is proposed to deliver 8982 shares to Los Angeles Trust and Savings Bank as trustee for the owners of

the properties and 275 shares to W. I. Hollingsworth in payment for properties to be transferred to the corporation which are not included among those held by the trustee.

Testimony herein shows that there are no records of the original cost of the properties to be acquired by Harbor City Water Company. However, applicants have submitted, in Exhibit "C," an appraisal of the system in which the replacement value, as of June 1, 1921, is estimated at \$92,571.86, exclusive of any allowance for intangible properties. In addition, applicants report that subsequent to June 1, 1921, the date of the appraisal, there has been expended for additions and betterments, consisting, in general, of a new concrete reservoir, meters and casing, the sum of \$6,020.75, exclusive of the cost of installation.

Adding the cost of these additions and betterments to the \$92,571.86 results in an approximate present replacement value of \$98,592.61 for the properties for which Harbor City Water Company proposes to issue \$92,570 of stock.

Subsequent to the hearing in this proceeding, an investigation of the properties was made by John Spencer, one of the Commission's hydraulic engineers. His findings, which, by consent of applicant's counsel, may be considered in evidence in this proceeding, show the estimated original cost at \$75,410 and the depreciated cost to 1922 at \$60,563.

It occurs to us that the amount of stock which Harbor City Water Company issues to acquire the properties should not exceed the estimated original cost of the properties plus five shares necessary to qualify directors.

ORDER.

Application having been made to the Railroad Commission for permission to transfer properties and to issue \$92,620 of stock, a public hearing having been held and it appearing to the Railroad Commission that Harbor City Water Company should be authorized to issue \$75,460 of stock, and that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified herein, and that this application should be granted subject to the conditions of this order;

It is hereby ordered, that Los Angeles Trust and Savings Bank, as trustee, and B. O. Miller, W. I. Hollingsworth, George W. Walker, Richard Laey and W. C. Price be and they are hereby authorized to sell, transfer and assign the water properties located at Harbor Industrial City and referred to in this application, to Harbor City Water Company, and Harbor City Water Company be and it is hereby authorized to purchase and acquire such water properties.

It is hereby further ordered, that Harbor City Water Company be and it is hereby authorized to issue \$75,460 (7546 shares) of its capital stock.

It is hereby further ordered, that this application, in so far as it relates to the issue of \$17,160 of stock, be dismissed without prejudice.

The authority herein granted is subject to the following conditions:

1. Of the stock herein authorized, five shares shall be sold at par for cash to W. I. Hollingsworth, W. C. Price, Richard Lacy, George W. Walker and B. O. Miller, for the purpose of qualifying them as directors, and the proceeds used for working capital.

2. Seven thousand five hundred forty-one shares may be delivered to Los Angeles Trust and Savings Bank as trustee and to W. I. Hollingsworth in full payment for the properties herein authorized to be transferred.

3. Harbor City Water Company shall advise the Commission of the exact date on which it acquired ownership of the properties and it shall file with the Commission a certified copy of the deed by which it acquired title to the properties herein authorized to be transferred within 30 days after its execution.

4. The price at which the properties are herein authorized to be transferred shall not be binding on the Railroad Commission or any court or other public body as a measure of value of the properties when fixing rates, or for any purpose other than the transfer herein authorized.

5. Harbor City Water Company shall keep such record of the issue, delivery and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

6. The authority herein granted will apply only to such transfer of properties or issue of stock as may be made on or before December 31, 1922.

Dated at San Francisco, California, this twenty-seventh day of April, 1922.

DECISION No. 10379.

IN THE MATTER OF THE APPLICATION OF UNIVERSAL ELECTRIC AND GAS COMPANY TO SELL AND GREAT WESTERN POWER COMPANY OF CALIFORNIA TO PURCHASE THE PROPERTIES OF UNIVERSAL ELECTRIC AND GAS COMPANY.

Application No. 7639.

Decided April 27, 1922.

TRANSFER—RATES—STIPULATION—JURISDICTION.—In authorizing the transfer of an electric utility, the Commission points out that the filing of a stipulation can not affect the Commission's jurisdiction over rates. An order modifying rates may be made in response to an application by the utility, upon complaint of consumers or by a proceeding on the Commission's own motion.

William Kehoc, for Universal Electric and Gas Company.

Guy C. Earl and Chaffee E. Hall, for Great Western Power Company of California.

J. C. Marshall, for Mission Street Merchants Association.

ROWELL, Commissioner.

OPINION.

The Railroad Commission is asked to make an order authorizing Universal Electric and Gas Company, hereinafter sometimes referred to as the "Universal Company," to sell its properties described in this application to the Great Western Power Company of California, hereinafter sometimes referred to as the "Western Company." The latter company asks permission to acquire the properties.

The Universal Electric and Gas Company is engaged in the business of purchasing, generating, producing, distributing and selling electric energy and steam and hot water in the city and county of San Francisco. The company reports that for many years last past it has owned and operated a plant and system for the generation, production, distribution and sale of electric energy and steam and hot water in said city and county of San Francisco, consisting, in general, of a steam generating plant of a capacity of 2400 kilovolt amperes, approximately 81 miles of primary overhead distribution lines, approximately 53 miles of secondary overhead distribution lines, approximately 46 miles of underground cable and approximately 74 miles of underground duct with the necessary and proper transformers, meters and other equipment for the distribution of electric energy, steam and hot water to approximately 4250 consumers. The Universal Company in its Exhibit "A," prepared under the supervision of its general manager, A. K. Harford, reports the reproduction cost new of its properties as of August 31, 1920, at \$3,241,863.54. From August 31, 1920, to January 31, 1922, it reports an expenditure of \$142,343.13 for additions and betterments. Adding the \$142,343.13 to the reported reproduction cost new of the properties, makes a total of \$3,384,206.67.

If authorized by the Commission, the Universal Electric and Gas Company has agreed to sell and the Great Western Power Company of California has agreed to purchase, as of March 1, 1922, all of the goodwill, franchises and properties of the Universal Company, tangible and intangible, of the character included within Classification C-1 to C-34, inclusive, as defined in the uniform system of accounts prescribed by the Commission for electric corporations, all properties used or useful in the production and distribution of steam and hot water, all materials and supplies, and all books of accounts, maps and records pertaining to the electric, steam and hot water business of the Universal Company, all free and clear of all liens and encumbrances, at and for the purchase price of \$2,250,000, plus an amount equivalent to the net increase in fixed capital installed between December 31, 1921, and March 1, 1922. Of the purchase price, the Western Company has agreed to pay \$500,000 upon the date that the Commission authorizes the sale of the properties, the balance to be paid within ninety days thereafter, but in no event later than June 30, 1922, with interest on said balance at the rate of 6 per cent per annum from the date of the Commission's order. All operating revenues and expenses of the Universal Company prior to March 1, 1922, shall be for the account of the Universal Company and all operating revenues and expenses on and after March 1, 1922, for the account of the Western Company, with the exception that the Universal Company shall be entitled to the net operating income arising out of the operation of the properties between March 1, 1922, and the date of the Commission's decision authorizing the sale of the properties, up to and not exceeding an amount equivalent to interest at the rate of 6 per cent per annum on \$2,250,000 for such period. The Universal Company, however, is not entitled to any interest during such period in excess of the amount of the net operating income for the period nor in excess of interest at the rate of 6 per cent per annum for the period. Income and expenses arising or incurred partly prior to March 1, 1922, and partly after such date, such as electric and steam revenue for service furnished partly prior to and partly after March 1, 1922, as well as taxes and insurance, shall be pro rated. The Western Company agrees to indemnify and hold harmless the Universal Company of and from all claims, demands and causes of action arising subsequent to March 1, 1922, out of the certain contract dated July 9, 1915, between the Universal Company and The Sierra and San Francisco Power Company, a certain contract between the Universal Company and A. Schilling and Company and all other contracts between the Universal Company and its electric and steam consumers listed in Exhibits "C" and "D."

A review of the evidence leads me to conclude that this application can be granted, as herein provided, without a detailed check of the inventory and appraisal submitted. While reference has been made to the appraisal, such reference does not constitute a finding as to the actual value of the properties for rate fixing or any other purpose.

J. C. Marshall, appearing on behalf of the Mission Street Merchants Association, requested that the Great Western Power Company of California be requested to file a stipulation agreeing or guaranteeing that it will not apply for an increase in rates or a modification of the contracts now existing between the Universal Company and its consumers on Mission street until the expiration of the period set forth in such contracts. It appears that the desire of the Mission Street Merchants Association is the continuation of the present contract rates. As was pointed out at the hearing, an order modifying the rates may be made in response to an application filed by the Western Company, or as a result of a complaint brought by consumers or a proceeding instituted upon the Commission's own motion. In view of this situation, the filing of a stipulation, as suggested, is no assurance that the present rates will be continued. All of the rates of the Universal Company are subject to the jurisdiction of the Commission and will remain so, no matter whether the properties continue to be owned by the Universal Company or are transferred to the Western Company. There is not at this time sufficient evidence before the Commission to warrant a change in the rates. The order will therefore provide that the present rates of the Universal Company be continued in effect until modified by the Commission.

I herewith submit the following form of order:

ORDER.

Universal Electric and Gas Company having applied to the Railroad Commission for permission to sell to Great Western Power Company of California the properties described in this application, and Great Western Power Company of California having applied to the Commission for permission to purchase said properties, a public hearing having been held and the Commission being of the opinion that this application should be granted subject to the conditions of this order;

It is hereby ordered that Universal Electric and Gas Company be and it is hereby authorized to sell to the Great Western Power Company of California all of its properties described in this application, and Great Western Power Company of California is hereby authorized to purchase said properties and to pay for said properties the sum of \$2,250,000, plus an amount equivalent to the net increase in fixed capital installed between December 31, 1921, and March 1, 1922.

It is hereby further ordered, that if the Great Western Power Company of California acquires the properties of Universal Electric and Gas Company, it shall continue in effect all the rates now charged by the Universal Electric and Gas Company until otherwise authorized by the Commission.

The authority herein granted is subject to the following conditions:

1. The consideration being paid for the properties by the Great Western Power Company of California shall not be urged before this Commission, or any other authority having jurisdiction, as a measure of value of said properties for any purpose other than the transfer herein authorized.

2. Great Western Power Company of California shall file with the Railroad Commission within thirty (30) days after its execution a certified copy of the deed under which it acquires the title to the properties herein authorized to be transferred and shall file with the Commission a statement showing the date on which it took possession of the properties and the date on which the title was transferred.

3. The authority herein granted will apply only to such transfer of properties as may be made on or before August 1, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of April, 1922.

DECISION No. 10380.

IN THE MATTER OF THE APPLICATION OF SISKIYOU TELEPHONE COMPANY FOR AUTHORIZATION TO RAISE EXCHANGE RATES AND TOLL RATES AND ADJUST THE SAME.

Application No. 5499.

Decided April 29, 1922.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

The Railroad Commission having on March 21, 1922, issued its Decision No. 10216 in the above entitled proceeding, providing among other things as follows:

Particular person toll rates:

"Until or unless otherwise ordered or authorized by the Railroad Commission, the long distance toll rates herein authorized to be charged and collected between all stations of Siskiyou Telephone Company and between said stations and stations of The Pacific Telephone and Telegraph Company shall be as provided in Order No. 2495 and Order No. 2797, issued by the Postmaster General of the United States on December 13, 1918, and February 17, 1919, respectively, as follows:

Where the distance between exchanges or toll points does not exceed 24 miles by direct air line measurement, the initial period rates shall be as provided in the following:

For distances more than	But not more than	Initial rate shall be
0 miles	12 miles	\$0 15
12 miles	18 miles	20
18 miles	24 miles	25

For all distances in excess of 24 miles by direct air line measurement, the initial period rates shall be

For distances more than	But not more than	Initial rate shall be
24 miles	32 miles	\$0 30
32 miles	40 miles	35
40 miles	48 miles	40
48 miles	56 miles	45
56 miles	64 miles	50

and for each additional 8 miles or fraction thereof the initial rate shall be 5 cents additional."

And said decision having further provided among other things as follows:

"In cases in which it is impossible to establish communication between particular persons, a limited charge as hereinafter provided and subject to the conditions set forth in Order No. 2495, governing such cases, to be known as a 'Report Charge,' may be made as follows:

When the initial rate is	The report charge may be
Not less than 20 cents and not more than 50 cents-----	\$0 10
More than 50 cents and not more than 75 cents-----	15
More than 75 cents and not more than \$1.00-----	20
More than \$1.00 and not more than \$1.25-----	25
More than \$1.25 and not more than \$1.50-----	30
More than \$1.50 and not more than \$1.75-----	35

and thereafter an additional charge of 5 cents for each additional 25 cents or less in the initial rate."

And it appearing that the provisions hereinabove referred to do not correctly set forth the rates set forth and provided in Order No. 2495 and Order No. 2797 of the Postmaster General of the United States;

It is hereby ordered, that paragraphs 7 and 9 of the order heretofore made in the above entitled proceedings on March 21, 1922, be and the same hereby are amended to read as follows:

"For all distances in excess of 24 miles by direct air line measurement, the initial period rate shall be

For distances more than	But not more than	Initial rate shall be
24 miles	32 miles	\$0 30
32 miles	40 miles	40
40 miles	48 miles	45
48 miles	56 miles	50
56 miles	64 miles	55

and for each additional 8 miles or fraction thereof the initial rate shall be 5 cents additional.

In cases in which it is impossible to establish communication between particular persons, a limited charge as hereinafter provided and subject to the conditions set

forth in Order No. 2495, governing such cases, to be known as a 'Report Charge,' may be made as follows:

When the initial rate is	The report charge may be
Not less than 15 cents and not more than 20 cents-----	\$0 05
Not less than 20 cents and not more than 50 cents-----	10
Not less than 50 cents and not more than 75 cents-----	15
Not less than 75 cents and not more than \$1.00-----	20
Not less than \$1.00 and not more than \$1.25-----	25
Not less than \$1.25 and not more than \$1.50-----	30
Not less than \$1.50 and not more than \$1.75-----	35

and thereafter an additional charge of 5 cents for each 25 cents or less in the initial rate."

Dated at San Francisco, California, this twenty-ninth day of April, 1922.

DECISION No. 10381.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ISSUE, SELL AND DELIVER TWENTY-FIVE MILLION DOLLARS PAR VALUE OF ITS BONDS.

Application No. 7792.

Decided April 29, 1922.

Pillsbury, Madison and Sutro, by *H. D. Pillsbury*, for Applicant.

BRUNDIGE, Commissioner.

OPINION.

The Pacific Telephone and Telegraph Company asks permission to issue and sell at 91 per cent of their face value and accrued interest \$25,000,000 of refunding mortgage 30-year 5 per cent bonds due May 1, 1952, and use the proceeds to reimburse its treasury, refund indebtedness and acquire and construct new properties.

The Railroad Commission, by Decision No. 10334, dated April 20, 1922, authorized applicant to issue and sell at not less than 85 per cent of its par value \$25,000,000 of 6 per cent cumulative preferred stock and use the proceeds to pay indebtedness due the American Telephone and Telegraph Company, the Crocker National Bank of San Francisco and other obligations. In Decision No. 10334, the Commission called attention, among other things, to applicant's authorized and outstanding stock, to its assets and liabilities as of December 31, 1921, and to its revenues and disbursements during 1920 and 1921. Reference is here made to such statements.

As of December 31, 1921, applicant reports \$38,646,000 of bonds outstanding. Its bonded debt consists of \$32,030,000 of The Pacific Telephone and Telegraph Company first mortgage and collateral trust 5 per cent sinking fund gold bonds due January 2, 1937, and \$6,616,000 of Home Long Distance Telephone and Telegraph Company first mortgage 5 per cent sinking fund gold bonds due January 2, 1932. It

appears of record that applicant's stockholders at a meeting held on April 19, 1922, approved the proposition of creating a new bonded debt in the amount of \$25,000,000. It is bonds representing this debt which applicant asks permission to issue and sell. From the sale of the bonds herein authorized, applicant will realize \$22,750,000, while from the sale of the \$25,000,000 of stock it should realize at least \$21,250,000, making a total of \$44,000,000. As of March 31, 1922, applicant reports outstanding notes of \$26,490,000, all of which except \$130,000 is payable to the American Telephone and Telegraph Company. It further reports current indebtedness of \$2,806,029.64 and accrued liabilities not due of \$1,710,977.96. The proceeds realized from the sale of the \$25,000,000 of preferred stock will not be sufficient to pay applicant's outstanding notes and other obligations. Applicant requests permission to use the proceeds from the sale of the bonds to pay such part of its indebtedness as may not be paid through the sale of its stock and use the remainder of the proceeds to reimburse its treasury and acquire and construct new properties. In Exhibit "AA" filed in this proceeding, applicant reports the major items of its immediate construction program for 1922 and 1923, the estimated cost of which aggregates \$25,580,000. The record shows that applicant has need of the moneys which it will realize from the sale of the \$25,000,000 of bonds.

Applicant has not yet filed with the Commission a copy of its deed of trust securing the payment of the \$25,000,000 of bonds. Counsel for applicant realizes that the Commission can not make a final order in this proceeding until such instrument has been filed and its execution authorized by the Commission. The order herein will permit the issue and sale of the bonds subject to the condition that the proceeds be deposited with a bank or banks, or with a trust company or trust companies and not expended until such time as the Commission may by supplemental order or orders authorize the execution of a deed of trust securing the payment of the bonds, and define the purposes for which the proceeds from the sale of the bonds may be used.

I herewith submit the following form of order:

ORDER.

The Pacific Telephone and Telegraph Company having applied to the Railroad Commission for permission to issue and sell \$25,000,000 of bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that this application should be granted subject to the conditions of this order;

It is hereby ordered, that The Pacific Telephone and Telegraph Company be and it is hereby authorized to issue and sell, for cash, on or

before October 1, 1922, at not less than 91 per cent of their face value and accrued interest \$25,000,000 of general refunding mortgage 30-year 5 per cent bonds due May 1, 1952; provided,

1. That, The Pacific Telephone and Telegraph Company will deposit with a bank or banks, or with a trust company or trust companies, all of the proceeds realized from the sale of the bonds and keep such proceeds deposited until such time as the Commission by supplemental order or orders defines the purposes for which the proceeds may be used and authorizes applicant to execute a deed of trust securing the payment of the bonds.

2. That, The Pacific Telephone and Telegraph Company will keep such record of the issue and sale of the bonds and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order 24, which order in so far as applicable is made a part of this order.

3. That, the authority herein granted will not become effective until The Pacific Telephone and Telegraph Company has paid the fee prescribed by section 57 of the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-ninth day of April, 1922.

DECISION No. 10382.

JOSEPH SWANSBOROUGH

vs.

WESTERN STATES GAS AND ELECTRIC COMPANY, A CORPORATION.

Case No. 1614.

Decided April 29, 1922.

H. E. Dillinger, for Complainant.

Chickering and Gregory, by *Evan Williams*, for Defendant.

MARTIN, *Commissioner*.

OPINION.

Complainant herein, Joseph Swansborough, is a farmer residing in El Dorado County approximately seventeen miles north of the city of Placerville and obtains water for irrigation purposes from Western States Gas and Electric Company's Summerfield ditch.

Complainant alleges in effect that he desires to obtain sufficient water to irrigate some 25 acres of land and has regularly made application therefor to the defendant, but has been denied any water in excess of

106 miner's inch days a year; that defendant and its predecessors have for many years sold and supplied water from the Summerfield ditch to complainant and others; and that the water of said ditch is dedicated to agriculture.

Complainant desires a continuous flow of 5 miner's inches of water during the irrigation season, alleging that this is the amount generally conceded to be required for the irrigation of 25 acres of land in that locality.

Defendant, in its answer, alleges that it has for many years devoted and dedicated all water and water rights owned or controlled by it to the generation and production of hydro-electric energy, except a small quantity of such water which certain consumers have purchased from it and its predecessor in interest; that when these consumers have ceased to use any of such water, defendant has immediately devoted it to the generation of hydro-electric energy; that all such hydro-electric energy is sold to the public generally; and that complainant has never purchased during any one calendar year more than 106 miner's inch days of water. Defendant denies that the water in the Summerfield ditch was for many years used for irrigation service only, and further denies that such water is dedicated to agriculture except a small portion thereof.

A public hearing in this matter was held at Placerville, and it was there stipulated that the testimony and briefs submitted in Case No. 1376, Western States Gas and Electric Company, a corporation, versus Joseph Swansborough, might be considered in evidence in this proceeding. (Decision No. 8563, Volume 19, page 312. Opinions and Orders of the Railroad Commission of California.)

The Summerfield ditch is about 20 miles long, of approximately 300 miner's inches capacity, and is used by the defendant company to supply its Finnon reservoir and a few irrigation consumers. The Finnon reservoir is located in close proximity to defendant's American River power plant and is used as a regulating reservoir to compensate for the losses in its main canal and also as an emergency supply, in the event of a shut down due to a break in the canal or for purposes of repair.

From the testimony submitted, it is clear that except during flood periods, all the water from the Summerfield ditch, not sold for irrigation purposes, is used by the defendant for the generation of hydro-electric energy. Therefore, if water is diverted to irrigation uses, in addition to that at present sold, the output of defendant's power plant will be correspondingly reduced. It was also shown that the power plant is now operating considerably under its full capacity, due to an insufficient water supply.

There are at present seven water users on the Summerfield ditch, and the amount of water which defendant stands ready to furnish to such consumers is based on a record of maximum use in any one season during the five-year period from 1914 to 1918, inclusive. The record of maximum use referred to was submitted as an exhibit in Case No. 1376, and in the case of Mr. Swansborough, was as follows:

1914-----	57.5 miner's inch days
1915-----	35.0 miner's inch days
1916-----	65.0 miner's inch days
1917-----	106.0 miner's inch days
1918-----	75.0 miner's inch days
1919-----	106.0 miner's inch days

It appears, however, that during the year 1918 a break occurred in the Summerfield ditch which resulted in complainant's water supply being cut off about July 2, after which service was not resumed during that season. Up to the time the supply was discontinued complainant had received 75 miner's inch days, and had approximately seven and one-half acres in crop, the greater part of which was a total loss, due to the failure of the water supply.

It is clear that Mr. Swansborough could use to advantage a greater quantity of water than the 106 miner's inch days per year to which he has been limited by defendant. It was shown that his use in 1920 was 105 miner's inch days and in 1921 was 200 miner's inch days. The 1921 use in excess of 106 miner's inch days was permitted by defendant through a stipulation to the effect that such additional use should not be determinative of any continuing right.

It is evident that the duty of water in this territory is approximately one miner's inch continuous flow to six acres, and judging from this, it would appear that had complainant been furnished an uninterrupted supply during 1918 he would have used in addition to the 75 miner's inch days furnished him approximately 105 miner's inch days. According to these calculations, complainant is entitled, upon the basis of maximum use during the five-year period mentioned, to an annual supply of 180 miner's inch days.

The period of five years has generally been held as a reasonable period for the determination of maximum use in cases similar to the present proceeding. However, it is not believed that complainant should suffer by having his water supply curtailed on account of the fact that an accident occurred on defendant's system during a year when, as the evidence shows, he would have used more water than during any other year of the five-year period which was used as a basis for ascertaining his maximum use.

I recommend the following form of order:

ORDER.

Joseph Swansborough having made complaint against Western States Gas and Electric Company, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that the maximum annual water supply furnished by defendant to complainant from Summerfield ditch during the five-year period from 1914 to 1918 inclusive, is 180 miner's inch days; that defendant's entire supply of water in said Summerfield ditch in excess of the maximum annual use by complainant has, for more than five years last past, been used by defendant to supply other consumers entitled to be served therefrom and to develop hydro-electric energy for distribution and sale to and use by the general public.

And basing the order upon the foregoing findings of fact and upon the statements of fact contained in the opinion preceding this order;

It is hereby ordered, that Western States Gas and Electric Company be and it is hereby ordered and directed to furnish Joseph Swansborough, complainant herein, from its Summerfield ditch water to the extent of 180 miner's inch days per annum, upon the receipt of written application from said Joseph Swansborough, each year, indicating his desire that such amount of water be furnished him.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-ninth day of April, 1922.

DECISION No. 10384.

IN THE MATTER OF THE APPLICATION OF F. P. GUITON IMPROVEMENT COMPANY, A CORPORATION, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A WATER SYSTEM IN OCEANO BEACH, COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA.

Application No. 7299.

IN THE MATTER OF THE APPLICATION OF OCEANO BEACH WATER COMPANY, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT AND OPERATE A WATER SYSTEM AT OCEANO BEACH, IN THE COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA.

Application No. 7760.

Decided April 29, 1922.

Carpenter and Dubin, by *H. J. Dubin*, for F. P. Guiton Improvement Company.
Chas. A. Palmer, for Oceano Beach Resort Company and for Oceano Beach Water Company.

BY THE COMMISSION.

OPINION.

A public hearing was held by Examiner Westover at Oceano Beach upon above Application No. 7299 for certificate that public convenience and necessity require F. P. Guiton Improvement Company to operate a water system to supply water in and about Oceano Beach.

It appears from the testimony that Oceano Beach was subdivided and platted a number of years ago, and a well, windmill, tank, and distributing pipes installed about twelve years ago. There are at present five active services. Water is pumped by a 2-horsepower gasoline motor and pump.

Lots in the townsite were not built upon as expected, and the unsold lots were acquired by F. P. Guiton about four years ago, and a total of 612 lots subsequently were sold by him to Oceano Beach Resort Company in three groups at different times. Nearly all of these lots lie in the northerly half of the subdivision. By its application, the improvement company, which has acquired the remaining unsold lots from Mr. Guiton, seeks authority to serve in a limited territory comprising the southerly portion of the subdivision in which it owns property. It appears from the testimony that it is unwilling to extend the territory to be served by it to include that in which most of the lots of the resort company are located, upon the ground that it would require considerable additional capital, and that it would be uncertain as to when the property would have upon it sufficient consumers to pay an adequate return upon the necessary investment.

However, the resort company showed that, while it would prefer to have the territory extended to include its property and receive service from the improvement company, and would donate to it pipe sufficient for piping that part of the tract extending northerly from Pier avenue it would, if necessary to assure high-class service, be willing to install its own system and provide high-class service to all of the subdivision, regardless of ownership. The latter proposal was shown to be satisfactory to the applicant, improvement company; and it was stipulated that such an application should be prepared and filed, and that it might be granted in lieu of granting Application No. 7299, both applications to be submitted upon the evidence taken under above Application No. 7299. All of the witnesses agreed that all of the subdivision could be better and more economically served by one plant rather than by two smaller ones.

The resort company has caused Oceano Beach Water Company to be incorporated. It has filed above Application No. 7760 in which it seeks authority to serve practically all of Oceano Beach, including the property of the improvement company. The Commission concludes

that the interest of the public will be best served by granting the latter application, and dismissing the earlier application.

ORDER.

A public hearing having been held upon the above entitled applications, the matter being submitted and ready for decision:

The Railroad Commission hereby declares that public convenience and necessity require and will require the operation by Oceano Beach Water Company, a corporation, of a public utility water system for the purpose of serving water to all of the subdivision and vicinity shown on map filed with its Application No. 7760 and referred to as Exhibit "B" thereof.

It is hereby ordered, that before Oceano Beach Water Company begins operation and serves water it shall file with the Railroad Commission its schedule of rates and its rules and regulations, which rates shall not exceed the rates proposed in the application, namely, 16 $\frac{2}{3}$ cents per hundred cubic feet, with a minimum monthly charge of not exceeding \$2 per month.

It is hereby further ordered, that F. P. Guiton Improvement Company, a corporation, continue to serve water to its present consumers until Oceano Beach Water Company provides high-class service to said present consumers, at which time the said F. P. Guiton Improvement Company is authorized to discontinue said service.

It is hereby further ordered, that Application No. 7299 of the latter company be and it is hereby dismissed.

Dated at San Francisco, California, this twenty-ninth day of April 1922.

DECISION No. 10385.

IN THE MATTER OF THE APPLICATION OF SAN BERNARDINO HOME TELEPHONE AND TELEGRAPH COMPANY FOR AUTHORITY TO CANCEL A CERTAIN LEASE WITH ASSOCIATED TELEPHONE COMPANY AND TRANSFER ITS REAL PROPERTY, FRANCHISES AND TELEPHONE EQUIPMENT TO UNION HOME TELEPHONE AND TELEGRAPH CORPORATION; OF LONG BEACH HOME TELEPHONE AND TELEGRAPH COMPANY TO CANCEL A CERTAIN LEASE WITH ASSOCIATED TELEPHONE COMPANY AND TRANSFER ITS REAL PROPERTY, FRANCHISES AND TELEPHONE EQUIPMENT TO UNION HOME TELEPHONE AND TELEGRAPH CORPORATION; OF UNION HOME TELEPHONE AND TELEGRAPH CORPORATION TO TRANSFER THE REAL PROPERTY, FRANCHISES AND TELEPHONE EQUIPMENT SO RECEIVED FROM SAN BERNARDINO HOME TELEPHONE AND TELEGRAPH COMPANY AND LONG BEACH HOME TELEPHONE AND TELEGRAPH COMPANY TO TITLE INSURANCE AND TRUST COMPANY, AS TRUSTEE, TO SECURE ITS BONDS; OF UNION HOME TELEPHONE AND TELEGRAPH CORPORATION TO TRANSFER ALL OF THE PROPERTIES RECEIVED AS AFORESAID, AND ALL OTHER PROPERTIES OWNED BY IT, TO ASSOCIATED TELEPHONE COMPANY; OF ASSOCIATED TELEPHONE COMPANY TO CANCEL ITS LEASES WITH SAN BERNARDINO HOME TELEPHONE AND TELEGRAPH COMPANY, LONG BEACH HOME TELEPHONE AND TELEGRAPH COMPANY; TO ASSIGN CERTAIN FRANCHISES TO SAID CORPORATIONS; TO TRANSFER ALL PROPERTIES, FRANCHISES AND TELEPHONE EQUIPMENT TO BE CONVEYED TO IT BY UNION HOME TELEPHONE AND TELEGRAPH CORPORATION TO TITLE INSURANCE AND TRUST COMPANY TO SECURE ITS BONDS.

Application No. 7695.

Decided April 29, 1922.

O'Melroy, Millikin and Tuller, for Applicants.

BY THE COMMISSION.

OPINION.

In this application San Bernardino Home Telephone and Telegraph Company, hereinafter sometimes mentioned as San Bernardino Company; Long Beach Home Telephone and Telegraph Company, hereinafter sometimes mentioned as Long Beach Company; Union Home Telephone and Telegraph Corporation, hereinafter sometimes mentioned as Union Home Corporation, and Associated Telephone Company, hereinafter sometimes mentioned as Associated Company, ask the Railroad Commission to make an order authorizing the transfer of properties, the assignment of franchises and the termination of those leases executed pursuant to Decision No. 8685, dated March 3, 1921, in Application No. 6231.

In brief, the application contemplates the consolidation or merger under one ownership of four different telephone companies, which at present are operated as one under lease arrangements.

The application shows that Union Home Corporation owns all of the outstanding stock and bonds of San Bernardino Company and Long

Beach Company and that this stock and these bonds are pledged with Title Insurance and Trust Company, as trustee, to secure the bond issue of Union Home Corporation. In addition, San Bernardino Company owes \$348,368.77 and Long Beach Company \$655,134.71 to Union Home Corporation for material and supplies furnished and moneys advanced. Associated Company, in turn, owns all but \$52,000 of the outstanding bonded debt of Union Home Corporation, which aggregate \$1,382,000, and all but four shares of Union Home Corporation's outstanding stock, which consists of \$1,800,750 of common stock and \$71,800 of preferred. These securities are pledged by Associated Company with Title Insurance and Trust Company, as trustee, to secure its bonds.

The Railroad Commission, heretofore, by Decision No. 8685, dated March 3, 1921, authorized San Bernardino Company, Long Beach Company and Union Home Corporation to lease all of their properties to Associated Company for a period of 29 years and 10 months from October 1, 1920. The leases were executed on October 1, 1920, and the franchises of the three companies assigned to Associated Company, it being agreed that if the leases were terminated the franchises would be reassigned to their former holders. These leases and franchises were pledged by Associated Company, along with the stock and bonds of Union Home Corporation, as security for the bonds of Associated Company.

It appears from the petition that Associated Company is unable to sell its bonds secured only by pledge of leases, franchises and securities of other corporations, and that it will be necessary for the company to own the properties it operates. Furthermore, the present lease arrangement is considered uneconomical.

For these reasons, it is thought desirable to transfer ownership in the properties to Associated Company.

It is the intention of Union Home Corporation to cancel the outstanding bonds of San Bernardino Company and Long Beach Company which are pledged to secure the bonds of Union Home Corporation. The trustee, however, refuses to release the securities of the two companies from the lien of the trust deed of Union Home Corporation unless properties of equal value are substituted and it refuses to accept the properties of San Bernardino Company and Long Beach Company unless they are unencumbered by any leases or assignments of franchises. Therefore, it has become necessary and permission is asked to terminate the leases executed pursuant to Decision No. 8685 and to reassign the franchises to their original owners.

San Bernardino Company and Long Beach Company then ask permission to transfer and convey all of their properties and franchises to

Union Home Corporation, subject to existing bonded debt. Upon such conveyances, Union Home Corporation will cancel the indebtedness owing to it and will pledge the properties and franchises so received with Title Insurance and Trust Company, to secure its own bonds, receiving in exchange the stock and bonds of the other two companies, which it proposes to cancel. Thereupon, San Bernardino Company and Long Beach Company will be disincorporated.

Union Home Corporation then asks permission to transfer and convey all of its properties and franchises, including those acquired from San Bernardino Company and Long Beach Company, to Associated Company in consideration that Associated Company assume and agree to pay the principal and interest of its outstanding bonded indebtedness. Associated Company then desires to pledge the properties and franchises so received with Title Insurance and Trust Company to secure the payment of its mortgage and collateral trust bonds.

By Decision No. 10007, dated January 20, 1922, in Application No. 7422, the Commission authorized Associated Company and Long Beach Company to sell certain real property with improvements located in the city of Long Beach for \$37,500. The petition shows that of this amount in excess of \$25,000 is unpaid. As the contract for sale provides that the sellers must furnish the purchaser a certificate showing title free and clear of all liens and encumbrances, authority is herein requested to convey such properties subject to this contract.

The petition shows that a new building is being constructed upon real property in Long Beach for Associated Company. It will be necessary to subject this new property to the lien of the trust deeds of Union Home Corporation and Associated Company before the trustee will release the properties authorized to be sold by Decision No. 10007. It appears that the new properties may be acquired by Union Home Corporation and subsequently by Associated Company subject to a mortgage of not exceeding \$25,000, in which event Associated Company will cause the contract for the sale of the old property to be delivered to Title Insurance and Trust Company to collect the purchase price and apply it on account of any amounts owing on the new properties.

ORDER.

Application having been made to the Railroad Commission for permission to transfer properties, assign franchises and terminate leases, and it appearing to the Railroad Commission that this is not a matter in which a public hearing is necessary and that the application should be granted;

It is hereby ordered,

(1) Associated Telephone Company, Union Home Telephone and Telegraph Corporation, Long Beach Home Telephone and Telegraph

Company and San Bernardino Home Telephone and Telegraph Company are authorized to terminate those leases executed pursuant to Decision No. 8685, dated March 3, 1921, and Associated Telephone Company is authorized to reassign those franchises acquired by it from Union Home Telephone and Telegraph Corporation, Long Beach Home Telephone and Telegraph Company and San Bernardino Home Telephone and Telegraph Company, all as set forth in this application.

(2) Long Beach Home Telephone and Telegraph Company and San Bernardino Home Telephone and Telegraph Company are authorized to transfer and convey all of their properties and franchises, subject to existing indebtedness, to Union Home Telephone and Telegraph Corporation.

(3) Union Home Telephone and Telegraph Corporation is authorized to acquire such properties and franchises and to convey them to Title Insurance and Trust Company, as trustee, to secure in part the payment of its first mortgage bonds.

(4) Union Home Telephone and Telegraph Corporation is authorized to transfer all of its properties and franchises, including those herein authorized to be acquired from San Bernardino Company and Long Beach Company, to Associated Telephone Company subject to outstanding indebtedness, provided Associated Telephone Company assume the payment of such indebtedness.

(5) Associated Telephone Company is authorized to acquire such properties, to assume the payment of principal and interest of the outstanding bonded indebtedness of Union Home Telephone and Telegraph Corporation and to pledge such properties and franchises with Title Insurance and Trust Company, as trustee, to secure the payment of its mortgage and collateral trust bonds.

(6) Union Home Telephone and Telegraph Corporation and Associated Telephone Company are authorized to acquire, transfer and pledge the properties of Long Beach Home Telephone and Telegraph Company subject to the contract for sale referred to in the foregoing opinion, and to convey the new property to be received in place of the properties covered by said contract of sale to Title Insurance and Trust Company, as trustees, to secure the bonds of Union Home Telephone and Telegraph Corporation and Associated Telephone Company.

The authority herein granted is subject to the following conditions:

1. Applicant shall file within sixty days after execution, certified copies of the deeds conveying the properties herein authorized to be transferred.

2. The authority herein granted will apply only to such transfers of properties, reassignment of franchises and termination of leases as may be made on or before December 1, 1922.

Dated at San Francisco, California, this twenty-ninth day of April 1922.

DECISION No. 10386.

IN THE MATTER OF THE PETITION OF THE CITY OF BANNING, REQUESTING THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA TO FIX THE JUST COMPENSATION TO BE PAID BY SAID CITY, UNDER THE LAW, FOR THE LANDS, PROPERTY AND RIGHTS OF THE PUBLIC UTILITY DISTRIBUTING ELECTRIC CURRENT FOR LIGHT, HEAT AND POWER IN SAID CITY OF BANNING UNDER THE FRANCHISE GRANTED BY ORDINANCE NUMBER FIFTY-SIX OF SAID CITY.

Application No. 4609.

Decided April 29, 1922.

Joseph L. Lewinson, for The Light and Power Utility—*Lizzie Glierst*,
Frank L. Miller and *James E. Barker*, for City of Banning.

BY THE COMMISSION.

**SUPPLEMENTAL OPINION AND FINDING ON AMOUNT OF JUST
COMPENSATION.**

The finding and order of the Railroad Commission herein fixing the just compensation to be paid by the city of Banning for the electric distribution system sought to be acquired was made on the nineteenth day of January, 1921 (Decision No. 8564). The total amount therein fixed was \$14,000. Thereafter, the city of Banning instituted an action in the superior court of the county of Riverside, State of California, for condemnation of the property thus valued, and a judgment was rendered in this action on December 1, 1921, by which it was decreed that the city of Banning should acquire the property in question at the compensation fixed by the Railroad Commission, subject, however, to the modification contemplated by section 47 (b) of the Public Utilities Act on account of additions, betterments, depreciation, or deterioration or other changes in the property transpiring since the date of the filing of the original petition in this proceeding.

On December 27, 1921, The Light and Power Utility filed its petition with the Commission pursuant to subdivision 9 of section 47 (b) of the Public Utilities Act, asking that the Commission make its finding increasing the just compensation heretofore fixed. Hearings were held in this supplemental petition on January 7 and 13, 1922, before Examiner Williams at Los Angeles, at which time evidence both oral and documentary was submitted relative to the matter of increase and/or decrease in compensation and the matter was submitted subject

to brief to be filed, said brief being filed on February 16, 1922, and is now ready for decision.

The evidence shows that due to expenditures which have been made by the company since the filing of the original petition for the purpose of preserving and improving the property in question, and due to depreciation accruing on the property since that date and to abandonment and removal of property, the just compensation heretofore fixed herein should be increased by a net amount of \$1,884.

FINDING.

After due consideration of all the evidence herein, the Commission hereby makes and files its finding, fixing as of this twenty-ninth day of April, 1922, the extent to which the just compensation heretofore fixed herein, should be increased.

The Commission finds that subsequent to the date of the filing of the original petition herein, the owner of the lands, property and rights herein sought to be acquired by the city of Banning made expenditures for the purpose of preserving and improving said lands, property and rights, and that said expenditures were reasonably and prudently made and were beneficial to said lands, property and rights, to the extent of increasing the just compensation heretofore fixed herein by a net amount of \$1,884; that by reason of the matter set forth in this finding the just compensation heretofore fixed herein by order made January 19, 1921, should be increased in the net amount of \$1,884.

Dated at San Francisco, California, this twenty-ninth day of April, 1922.

DECISION No. 10387.

IN THE MATTER OF THE INVESTIGATION, ON THE COMMISSION'S OWN MOTION, OF THE REASONABLENESS OF PROPOSED UNIFORM STANDARDS OF OVERHEAD LINE CONSTRUCTION FOR THE STATE OF CALIFORNIA.

Case No. 1615.

Decided May 1, 1922.

Frank B. Austin and A. H. Babcock, for Southern Pacific Company.

H. P. Bell, for San Francisco-Oakland Terminal Railways.

L. M. Klauber, for San Diego Consolidated Gas and Electric Company.

R. E. Cunningham, for Southern California Edison Company.

E. J. Crawford and Lloyd Henley, for San Joaquin Light and Power Corporation.

S. J. Lisberger, for Pacific Gas and Electric Company.

R. W. Mastick, for Pacific Telephone and Telegraph Company.

Ernest Irwin, for Independent Telephone Association of California and particularly Home Telephone Company of Covina.

S. M. Foster, for Market Street Railway Company.

S. H. Anderson, for Pacific Electric Railway Company.

J. E. Macdonald, for Joint Pole Committee of Los Angeles.

F. A. Gift, for Western Union Telegraph Company.
L. C. Glasser and *Geo. Flattery*, for International Brotherhood of Electrical Workers.
J. A. Koontz and *G. H. Hagar*, for Great Western Power Company.
W. R. Van Bokkelen, for Coast Counties Gas and Electric Company.
T. P. Brewster, for The Atchison, Topeka and Santa Fe Railway.
E. N. D'Oyley, for Western States Gas and Electric Company.
James F. Pollard, for Coast Valleys Gas and Electric Company.
P. B. Harris, for Los Angeles Railway Corporation.
W. G. Rennison, for Petaluma and Santa Rosa Railway Company.
R. S. Daniels, for California-Oregon Power Company.
C. E. Kimball, for Industrial Accident Commission.
W. H. Davison, for Peninsula Railway Company and San Jose Railroads.
J. M. Sims, for Pacific Coast Railway Company.
R. W. Wiley, for City and County of San Francisco.

MARTIN, Commissioner.

OPINION.

This is an investigation, on the Commission's own motion, into the reasonableness of proposed uniform standards of overhead line construction for the State of California.

Proposed rules or standards of overhead line construction prepared under the Commission's supervision and direction and embodying modifications of the Commission's General Order No. 26, certain requirements of chapter 499, Statutes of 1911, as amended by chapter 600, Statutes of 1915, and various other requirements pertinent to service and safety were submitted in evidence at the hearing in this proceeding in the form of a proposed General Order.

The consensus of opinion of representatives of utilities who were present was favorable to the adoption of standard rules. No evidence was presented in opposition to the rules as a whole. A few requests were made that the Commission grant deviations from some particular requirements or give further consideration to certain of the rules, with a view of making modifications thereof. As a result of such evidence modifications have been made in the original draft submitted. The proposed rules already include a clause which permits deviations when conclusive evidence has been presented to show that exceptional conditions exist.

In view of the fact that the statements of utility representatives were unanimous in expression of the desirability of such rules and that careful investigation indicated the inadequacy of existing rules and the need of these uniform standards, I am of the opinion that the application of these rules as specified in General Order No. 64 will promote uniform and higher standards of construction and will insure more adequate service and greater safety to persons engaged in the construction, maintenance, operation or use of overhead electrical lines and to the public in general and will, at the same time, work no undue hardship on the owners of such lines.

I recommend the following form of order:

ORDER.

An investigation having been instituted, on the Commission's own motion, into the reasonableness of certain proposed uniform standards of overhead line construction, a hearing having been held and the matter submitted and ready for decision:

The Railroad Commission of the State of California hereby finds as a fact that the proposed rules and regulations for overhead line construction as modified and set forth in this Commission's General Order No. 64 are reasonable and just and that compliance with the same will result in improved service and greater safety.

Basing its order on the above finding of fact;

It is hereby ordered that,

(1) All construction, reconstruction and maintenance of overhead electrical supply and signal lines coming within the jurisdiction of this Commission, done on and after July 1, 1922, shall conform to the Rules of Overhead Electric Line Construction prescribed by the Railroad Commission of the State of California in its General Order No. 64.

(2) General Order No. 64 is hereby approved and ordered effective July 1, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this first day of May, 1922.

DECISION No. 10390.

IN THE MATTER OF THE APPLICATION OF J. G. KIRKMAN, OF EXETER, CALIFORNIA, FOR PERMISSION TO SELL, AND THE APPLICATION OF WILLIAM DE CARTERET, OF PLACERVILLE, CALIFORNIA, TO BUY THE EXETER TELEPHONE EXCHANGE, LOCATED AT EXETER, TULARE COUNTY, CALIFORNIA.

Application No. 7539.

Decided May 2, 1922.

Karl Machetanz, for J. G. Kirkman.
William De Carteret, in propria persona.

BY THE COMMISSION.

OPINION.

This is a proceeding in which the authorization of this Commission is sought by J. G. Kirkman to transfer the telephone system, except the land and buildings, owned and operated by him in Exeter, Tulare County, to William De Carteret, and by William De Carteret to

purchase said system. The original application was amended to include a request for authorization to issue a note and mortgage for \$13,000 to cover the unpaid balance on the purchase price of \$28,000.

A hearing on this matter was held by Examiner Satterwhite in Exeter on March 31, 1922.

At this hearing Mr. Kirkman stated that he wished to sell his telephone property so that he could reside near the University of California. He also filed a financial statement showing total assets amounting to \$36,257.87 and liabilities of \$12,205.47, leaving a surplus of \$24,052.40. The liabilities include a note for \$11,300. Mr. De Carteret did not file a financial statement but the testimony indicates that he is well prepared to finance the deal.

It developed at the hearing that Mr. De Carteret desired to issue a note secured by mortgage to Mr. Kirkman for \$13,000 for that portion of the purchase price which was not paid for in cash or real property. Applicants asked permission to amend their petition to include a request for authorization to issue the note and execute the mortgage and the request for amendment was granted.

The Commission did not make an inventory and appraisal of the property or an extended survey of the utility's affairs in connection with this application, but it did do so in connection with Case No. 1667 decided on December 8, 1921. The historical reproduction cost of the property as of December 1, 1920, amounted to \$30,177, as determined by our engineers in Case No. 1667. This included \$8,000 for land and buildings which are used at present for telephone purposes but which are not included in the proposed transfer. Considering additions which have been made to the plant since the date of the appraisal, we consider that the sale price of \$28,000 is not unreasonable. Further, Mr. De Carteret, at our request, has stipulated that at no time will he ask this Commission, or any other public body, to consider the purchase price of the property in any rate proceeding which may be held in the future.

The order in Decision No. 9846, Case No. 1667, required certain improvements in service, changes in methods of keeping the utility's records, elimination of discrimination and the setting aside of a depreciation fund in cash. In determining the rates authorized in Decision No. 9846, allowance has been made for any additional expenses which would be incurred, and for the net additions to fixed capital which would result from these changes. Mr. De Carteret has stipulated that he will continue in effect such provisions of this order as have been complied with and will complete those provisions which have not been complied with at the time of transfer. This will be made a condition of the order.

ORDER.

An application having been filed with the Railroad Commission involving the transfer of the telephone property, excepting land and buildings, owned and operated by J. G. Kirkman in Exeter, Tulare County, to William De Carteret; the execution of a mortgage and the issuance of a note by William De Carteret; a public hearing having been held, and the Railroad Commission being fully apprised in the matter;

It is hereby ordered, that J. G. Kirkman be and he is hereby authorized to sell and transfer to William De Carteret all his telephone property, except land and buildings, in Exeter, Tulare County, California, more particularly described in the bill of sale filed with this Commission on February 14, 1922.

It is hereby ordered, that William De Carteret be and he is hereby authorized to issue a \$13,000 7 per cent note payable on or before five years after date and execute a mortgage substantially in the same form as the mortgage filed in this proceeding for the purpose of securing the payment of the note.

The authority herein granted is upon the following conditions, and not otherwise:

1. The consideration at which J. G. Kirkman is herein authorized to sell and transfer his property shall not be urged before this Commission, or any other public body, as fixing a value of said property for rate making or any purpose other than the transfer herein authorized.

2. All the provisions in the order in Decision No. 9846, Case No. 1667, shall be continued in effect or, if not yet complied with, shall be executed by William De Carteret within the time limits specified, unless good cause is shown for an extension of time.

3. J. G. Kirkman shall transfer to Mr. De Carteret, as part of his telephone property, the depreciation reserve fund ordered set aside in Decision No. 9846, less any amounts spent for replacements which are properly chargeable to this fund.

4. The authority herein granted to execute a mortgage is for the purpose of this proceeding only, and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage as to such other legal requirements to which such mortgage may be subject.

5. William De Carteret shall keep such record of the issue of the note and the disposition of the proceeds as will enable him to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

6. The authority herein granted will not become effective until William De Carteret has paid the minimum fee required by section 57 of the Public Utilities Act, which fee is \$25.

7. The authority herein granted will apply only to such note as may be issued on or before September 1, 1922.

Dated at San Francisco, California, this second day of May, 1922.

DECISION No. 10391.

IN THE MATTER OF THE APPLICATION OF N. M. PETERSON, OWNER OF THE MOUNTAIN AVENUE WATER COMPANY, OF FETTERS SPRINGS, SONOMA COUNTY, CALIFORNIA, FOR PERMISSION TO FIX WATER RATES.

Application No. 7630.

Decided May 2, 1922.

RATES, WATER UTILITY—DEVELOPMENT STAGE—FULL RETURN.—It is held that as the community served is very sparsely settled and is still in a development stage, a full return would result in a prohibitory rate.

RATES—SUMMER RESORT—READINESS-TO-SERVE CHARGE.—The Commission points out that summer visitors who use the water facilities for only a short period should, in fairness to regular consumers, pay a rate that embraces a readiness-to-serve charge covering the continuous maintenance of a system capable of supplying the maximum number of consumers at all times.

N. M. Peterson, for Applicant.

BY THE COMMISSION.

OPINION.

N. M. Peterson, applicant in the above entitled matter, owns and operates a public utility water system, known as the Mountain Avenue Water Company, which supplies water for domestic purposes to certain inhabitants living in Agua Caliente Park Subdivision, a tract of land adjoining the town of Feters Springs, Sonoma County. The application in this proceeding alleges that no rates for water service furnished by this system have ever been fixed by the Railroad Commission and asks that the following schedule of rates be authorized:

- (a) Six dollars annually, to be paid in advance.
- (b) In addition to the annual charge, the payment for each month during which water is used, as follows:

Flat Rates.

1. Stores and offices	\$0 50
2. Houses of four rooms or less	50
(a) Additional for each room	10
3. Hotels:	
(a) Dining rooms	2 00
(b) Bedroom, per room	10
4. Restaurants	1 00
5. Barber shops, per chair	50
6. Horse and cows, each	10

7. Auxiliary uses:

(a) Private toilets -----	\$0 10
(b) Private bath tubs -----	10
(c) Public toilets -----	50
(d) Public bath tubs -----	50
(e) Soda fountains and ice cream parlors -----	50
(f) Irrigation of lawns and gardens per 100 square feet during irrigation -----	02

Meter Rates.

50 cents for 250 cubic feet or less.

20 cents for each 100 cubic feet or fraction thereof for the next 1750 cubic feet.

15 cents for each 100 cubic feet or fraction thereof in excess of 2000 cubic feet.

A public hearing was held in this matter before Examiner Satterwhite at Feters Springs. All interested parties were notified and given an opportunity to be present and be heard.

This water plant was installed in 1913 by one Diebolt and has been operated only intermittently and by various owners up to March, 1921, at which time the applicant herein acquired the property. Since this time the system has been repaired and improved and placed in operating condition. The water is supplied from a 6-inch drilled well by a pump operated by a 2-horsepower electric motor. Water is stored in a 5000-gallon redwood stave tank from which it is distributed by gravity through approximately 2900 feet of pipe, 2 inches or less in diameter.

The rates charged at present by the applicant are \$1 per month for six months during the winter and \$1.50 to \$2 per month for service rendered during the other six months of the year. All charges are at flat rates.

The community served is a summer resort. On March 1, 1922, there were six permanent residents who used water for the entire year, while there were thirteen additional consumers who used water for only a few months during the summer season.

A report was submitted by Mr. M. R. MacKall, one of the Commission's hydraulic engineers, which shows an appraisalment of this plant, based upon the estimated original cost, amounting to \$1,323, an annual replacement fund of \$33, computed by the 6 per cent sinking fund method, recommending as reasonable an allowance for annual maintenance and operation expenses of \$190. No appraisalment of the water utility property of this system was submitted by the applicant.

A consideration of the evidence leads to the conclusion that these estimates are fair and they will be used for the purposes of this proceeding. Following is a summary of the annual charges outlined above:

Return on \$1,323 at 8 per cent -----	\$106 00
Replacement fund -----	33 00
Maintenance and operation expenses -----	190 00
Total -----	\$329 00

The revenues receivable for the year ending March 31, 1922, were \$86.

The community served is at present very sparsely settled and is still in a development stage. A full return as indicated above would burden the consumers with a prohibitory rate. This matter is further complicated by the fact that the majority of the applicant's consumers use water for only a very short period during the year, which requires the continuous maintenance of a system capable of supplying the maximum number of consumers at all times. In order that the few permanent water users requiring service throughout the year may not have to pay rates in excess of the value of the service which they receive, it appears fair that these consumers requiring service only during a few months of each year should pay a rate which embraces this readiness-to-serve charge covering the time when water is not delivered, although the utility stands ready to render service at any time it is desired.

Taking into consideration the conditions existing in the community served, as revealed in testimony, and the fact that this territory is now in the early stages of development, the rate schedule established in the following order is based upon the fair and reasonable value of the service rendered to the community and is designed to distribute the burden of maintaining the system in so far as possible so that each consumer will bear his equitable proportion of the necessary expense.

ORDER.

N. M. Peterson having made application to the Railroad Commission as entitled above, a public hearing having been held and the matter having been submitted:

It is hereby found as a fact that the rates now charged by N. M. Peterson for water supplied to his consumers are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established for water service are just and reasonable rates for such service.

And basing its order upon the foregoing findings of fact and on the further statements of fact contained in the opinion preceding this order;

It is hereby ordered, that N. M. Peterson be and he is hereby authorized and directed to file with the Railroad Commission within twenty (20) days from the date of this order the following rates for water delivered to his consumers in Agua Caliente Park Subdivision and

vicinity, said rates to become effective for all service rendered after June 1, 1922:

Flat Rates.

Annual charge, payable in advance	\$6 00
In addition to the above annual charge, the following rates will be charged for each month during which water is used:	
1. Residences four rooms or less	\$0 50
2. For each additional room	10
3. Stores	50
4. Private patent toilets, each	10
5. Private bath tubs, each	10
6. For each horse or cow	10
7. For the irrigation of lawns or gardens, for each 100 square feet.....	10
All other use at meter rates.	

Meter Rates.

Annual charge, payable in advance.....	\$6 00
In addition to the above annual charge, the following rates will be charged for each month during which water is used:	
For the first 250 cubic feet or less	\$0 50
For the next 1750 cubic feet, per 100 cubic feet.....	20
For all use over 2000 cubic feet, per 100 cubic feet	15
Meters may be installed on any and all services at the option of the utility or at the request of any consumer.	

It is hereby further ordered, that N. M. Peterson be and he is hereby directed to file with the Railroad Commission within thirty (30) days from the date of this order a complete schedule of rules and regulations governing the distribution and sale of water to his consumers, said schedule to be effective on the day of its acceptance by the Commission.

Dated at San Francisco, California, this second day of May, 1922.

DECISION No. 10393.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR A REVISION AND ADJUSTMENT OF RATES.

Application No. 6651.

IN THE MATTER OF THE INVESTIGATION OF THE ELECTRIC RATES, SERVICE AND OPERATIONS OF SAN JOAQUIN LIGHT AND POWER CORPORATION, ON THE COMMISSION'S OWN MOTION.

Case No. 1544.

Decided May 2, 1922.

BY THE COMMISSION.

OPINION ON PETITION FOR REHEARING.

E. Easton, a power consumer, and California Farm Bureau Federation, by F. S. Brittain, attorney, have filed a petition for rehearing herein. We will consider such of the allegations of said petition as seem to require mention.

Petitioners question whether the Decision No. 10348 in the above entitled matters allows the company the interest on accrued depreciation

in addition to return, operating expenses and depreciation annuity, or as a deduction from the fair return allowed. Study of the decision will show clearly that the allowance in operating expenses for depreciation is the depreciation annuity, and that the interest on the accrued depreciation which the company is ordered to add to the reserve is to be set aside out of the fair return upon the investment.

Petitioners urge that the full allowance of the investment in the Midway steam plant and enlargement of the Bakersfield steam plant should not be made, it being contended that part of the investment is not beneficially used and useful in its entirety by the regular consumers. The Commission gave full consideration to this question in the main decision and included in the gross revenue the revenue from the sale of 40,000,000 kilowatt hours to Pacific Gas and Electric Company and Southern California Edison Company, which sales will result in net revenue sufficient to justify inclusion of the entire investment in these properties as a part of the rate base.

Petitioners urge that the Commission erred in its computation of state taxes. This matter has been the subject of very careful consideration by the Commission and the claim of petitioners in this matter does not appear to be sound.

Petitioners urge that further consideration should be given to the question of agricultural rates. This claim is apparently based upon a lack of careful study of the decision and does not appear to justify reopening the proceeding.

We conclude from consideration of the petition for rehearing and reconsideration of the evidence that rehearing in this matter should not be granted.

ORDER ON PETITION FOR REHEARING.

E. Easton, a power consumer, and California Farm Bureau Federation having filed petition for rehearing in the above entitled proceeding, careful consideration having been given to said petition:

The Railroad Commission hereby finds that the rehearing as requested should not be granted.

Basing its order on the foregoing finding of fact and each statement of fact contained in the opinion dated April 25, 1922, and the opinion which precedes this order;

It is hereby ordered, that the petition for rehearing filed by E. Easton, a power consumer, and California Farm Bureau Federation be and the same is hereby denied.

Dated at San Francisco, California, this second day of May, 1922,

DECISION No. 10401.

IN THE MATTER OF THE APPLICATION OF FRESNO TRACTION COMPANY FOR (a) AUTHORITY TO ABANDON CERTAIN STREET RAILWAY FRANCHISES IN FRESNO, CALIFORNIA, (b) FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSSITY FOR THE EXERCISE OF RESETTLEMENT FRANCHISES, AND (c) TO EXECUTE TO UNION TRUST COMPANY OF SAN FRANCISCO, AS TRUSTEE, A SUPPLEMENTAL MORTGAGE COVERING SUCH RESETTLEMENT FRANCHISE RIGHTS.

Application No. 7705.

Decided May 3, 1922.

STREET RAILWAYS—RESETTLEMENT FRANCHISE—TERM AND INDETERMINATE FRANCHISES.—In approving the exchange of term franchises for a resettlement franchise, the Commission reiterates its opinion of the desirability, from the standpoint of the public, of exchanging obsolete and undesirable term franchises for franchises of a more modern and desirable type.

RATES—JURISDICTION.—As, under the constitution of the state and the Public Utilities Act, the Railroad Commission has sole jurisdiction in the matter of fixing of rates, the Commission pointed out that the provisions in the franchise affecting rates can be considered by it only as recommendatory.

CONDEMNATION—JURISDICTION—VALIDITY OF FRANCHISE PROVISIONS.—In view of the fact that the Public Utilities Act prescribes a method of procedure under which cities and other political subdivisions of the state may acquire the property of public utilities by condemnation or otherwise, the Commission reserved for future consideration passing on the validity of certain restrictive sections of the resettlement franchise.

E. J. Foults and C. L. Everts, for Applicant.

H. M. Johnston, City Attorney of Fresno, for City of Fresno.

ROWELL, Commissioner.

OPINION.

The Fresno Traction Company (hereinafter referred to as the company) asks, first, for an order under section 51 (a) of the Public Utilities Act authorizing it to surrender and abandon its existing street railway franchises in Fresno to the city of Fresno (hereinafter referred to as the city) in accordance with section 6 of Ordinance No. 964 of the city; second, for a certificate that public convenience and neessity require the exercise by the company of the rights, privileges and franchises granted by Ordinance No. 964 and, third, authority under section 51 (a) of the Public Utilities Act to execute a supplemental mortgage to Union Trust Company of San Francisco, as trustee, of the rights so granted to the company by Ordinance No. 964 of the city, in lieu of the franchise rights to be abandoned and surrendered.

It appears that on February 16, 1922, the city commission of the city of Fresno adopted an ordinance, designated Ordinance No. 964, such ordinance granting to applicant a resettlement franchise and covering all of the lines owned and operated by the company in the city in resettlement and adjustment of existing franchises. A copy of franchise Ordinance No. 964 is a part of the application and an exhibit in

this proceeding. In section 6 of said Ordinance No. 964 it is provided that applicant, together with the trustee under its outstanding mortgage, shall within ninety days after the sixteenth day of February, 1922, file an abandonment and surrender to the city all of its existing franchises as enumerated in said section 6, to which reference is hereby made. It also appears that applicant has a bond mortgage upon its property bearing the date of July 1, 1904, executed to the Union Trust Company, as trustee, under which mortgage there are outstanding bonds of the par value of \$680,000. In the acceptance of the resettlement franchise and the abandonment of the prior franchises applicant proposes, in order not to impair the security for the outstanding bonds, to execute to Union Trust Company of San Francisco, as trustee, a supplemental deed of trust or mortgage, subjecting the rights, privileges and franchises granted to applicant by Ordinance No. 964 to the lien of said indenture in lieu of the prior franchises to be surrendered as referred to above.

Applicant does not propose to construct any new lines or abandon any of the existing lines of street railway in the city of Fresno, but simply to continue the present operation.

The exchange of the several prior franchises, expiring at various times from four and one-half to twelve years in the future, for the resettlement franchises granted in Ordinance No. 964 is of undoubted advantage both to the city and to the company and it is my conclusion, therefore, that this application should be granted. This Commission has on several occasions expressed its opinion of the desirability, from the standpoint of the public, of exchanging obsolete and undesirable term franchises for more desirable and more modern indeterminate franchises. While under its charter, Fresno is not in a position to grant a full indeterminate street railway franchise, the franchise before us represents an improvement over the franchise to be surrendered and the city may under the new franchise look forward to improved street car service, able to keep pace with the rapid growth of the city. From the standpoint of the company's bondholders the franchise exchange is a desirable step and one tending to enhance the value of the security.

The granting of a certificate for public convenience and necessity for a new service is not at issue. All that is necessary is to certify that public convenience and necessity require the continuation of the service that is now being rendered by this company to the people of the city of Fresno.

Counsel for the city of Fresno stated that the city desired this resettlement franchise to take effect and urged the granting of the company's application.

The Commission is not asked in this proceeding to approve any of the provisions of the resettlement franchise nor has the city nor the applicant called upon the Commission to pass upon the validity of any of the franchise provisions. Inasmuch, however, as this Commission is specifically referred to in several sections of Ordinance No. 964 and, in a sense, made a party to the contract between the company and the city, it appears desirable to refer briefly to the relevant franchise provisions. These provisions deal, first, with the matter of rate fixing and second, with the terms under which the city can acquire this property in the event the city desires to purchase.

Referring to the matter of rates, section 1, subsections (g) and (h) of Ordinance No. 964 read:

"(g) The words 'capital value,' used in this ordinance shall be held and construed to mean the amount which the Railroad Commission of the State of California may lawfully fix from time to time.

"(h) The words 'operating expenses and taxes' used in this ordinance shall be held and construed to include the expenses defined as 'operating expenses and taxes' by the Railroad Commission of the State of California."

These subsections should be read in connection with section 12, which is as follows:

"(12) That the company shall on or before February 15th of each year file with the commission and the Railroad Commission a full and complete report in such form and containing such matters as required by the Railroad Commission of the State of California and upon such report, subject to the approval of the Railroad Commission of the State of California, the rates of fare to be charged on the lines of this company, in the city of Fresno shall be such as to allow said company to earn gross amount sufficient to pay 'operating expenses and taxes;' and a return at a reasonable rate per annum upon the 'capital value' as such terms are defined in this franchise. When it shall appear that the existing rates of fares are giving a return in excess of a reasonable return per annum as evidenced by the earnings of the whole or proportionate part of the preceding calendar year, during which time said rates were in effect, then on or before the 15th day of February of next calendar year the company shall notify the Railroad Commission and the commission, and if approved by the Railroad Commission it shall lower such fare one cent, such reduction to be effective April 1st following; and if the rates of fares shall fail to yield a reasonable return during the period and under the conditions above specified, then the company shall on or before the fifteenth day of February of the next calendar year notify the Railroad Commission and the commission, and unless objected to by the Railroad Commission shall increase the rate of fare one cent, which increase shall be effective April 1st following. It is the intention that the rate of fare shall not be changed more often than once in twelve months. Except as from time to time otherwise determined by the Railroad Commission as measured by the rates of return found reasonable in connection with the operation of public utilities, such reasonable rate of return shall be deemed to be 8 per cent per annum. Nothing in this franchise shall be construed as limiting the right now accorded by law to any person or persons from presenting any applications to the Railroad Commission as are now allowed by law to be so presented to such Railroad Commission."

It will be noted that under section 12 the company is required to file with the commission of the city of Fresno and with this Commission a "full and complete report in such form and containing such matters as required by the Railroad Commission" and that "upon such report"

the rates of fare shall be fixed in such manner as to pay the "operating expenses and taxes" and a reasonable rate of return upon the "capital value." The company at present files with this Commission no report that will meet the requirements of this franchise provision. The only report required from the company under the rules of the Commission is the "annual report" and this report embraces the operations of the company both inside and outside the city limits of Fresno. It will be necessary, therefore, if this franchise provision is to be complied with, to file a new report segregating the company's operations inside the Fresno city limits from those on the outside. Section 12 apparently is intended to lay down a rule of rate making and of determining the "rate base" with the rate of return specified at eight per cent.

In my opinion, the most that this section of the franchise can accomplish is to indicate to the Commission the basis on which the city of Fresno is willing to have this Commission proceed in the fixing of street railway fares and the extent of the profit which it is willing the company should earn from its street railway operation. Under the constitution of the state and under the Public Utilities Act this Commission has sole jurisdiction in the matter of the fixing of rates. It follows that nothing contained in this franchise can absolve the Commission from its duty to fix fair and reasonable rates and it must in the fixing of such rates be controlled, of course, by the facts as they will be developed in any particular case under its own methods of investigation and in its own best judgment. It must be understood, therefore, that the Commission can not be bound in any rate proceeding by definitions or interpretations of terms such as "capital value", appearing in the resettlement franchise. This matter was discussed in the hearing by the presiding Commissioner with counsel for the city and for the company and there appeared to be general agreement as to the paramount rate-making authority of this Commission.

To carry out the intent of section 12 of the resettlement franchise it will be necessary for this Commission to make a valuation of this property in order to establish the sum on which earnings should be calculated and usually designated as "rate base" by this Commission and apparently termed "capital value" in the franchise. At the hearing it appeared that such a valuation is desired both by the city and by the company. Instructions have been issued by the Commission to its engineering department to make such a valuation, the expense to be borne by the parties to the franchise. It would be desirable if the city through its own engineers could participate from the beginning in the making of such a valuation. A decision in the valuation matter can be made in a supplemental order in this proceeding.

Section 19 deals with the city's right to terminate this franchise and to acquire the street railway system. The section reads as follows:

"(19) That this resettlement franchise is granted upon the express condition that the city shall have the right to terminate this franchise, and to acquire by purchase, or otherwise, all property of the company within said city used and useful in the operation of the railways under this resettlement franchise, and all extensions hereafter granted and made, and such other property within said city of the company as shall be determined by the city to be of prospective usefulness in the public service, ten years from the adoption of this ordinance, and upon each ten year period thereafter, upon giving the company six months notice of its intention, at a valuation of the said physical properties of the company, agreed on between the company and the city, or if they can not agree, at a valuation to be lawfully fixed and determined by the Railroad Commission. Should the city elect to terminate this franchise and acquire said property, if the city and company can not agree, the city shall promptly apply to the Railroad Commission for an appraisalment and valuation of said properties. The valuation so lawfully fixed shall be conclusive on the parties, and if the company shall be operating lines of railway outside of the city, but in conjunction with its lines within the city, and shall have a bonded indebtedness hereafter covering the whole, such Railroad Commission shall have the right, on demand of the city, to apportion the bonded indebtedness as between the properties within and without the city. The city, if the valuation of said property within the city shall exceed the bonded debt, or the part thereof apportioned to the property within the city, may assume the bonded debt, as a part of the purchase price, and pay the difference in money. The city must, within one year after the valuation fixed by the Railroad Commission has become final, or in event of litigation within one year after final determination thereof, either pay to the company, in lawful money of the United States, the value fixed by said Railroad Commission, or assume the bonded indebtedness and pay the company such difference, and, provided further, however, that any and all mortgages or deeds of trust hereafter given to secure the lien of any bonded indebtedness shall contain suitable provisions to carry into effect the clauses contained in this franchise pertaining to the settlement and division of such bonded indebtedness, but, in reference to any deeds of trust or mortgages now existing upon said properties given to secure such bonded indebtedness, the said company shall, in the event of sale, at the request of the city, reduce said bonded indebtedness to a sum not in excess of thirty thousand (\$30,000) dollars, and, in the event of such sale and purchase by the city, the said city shall have the right and privilege to retain a sum sufficient to cover such bonded indebtedness with interest and to retain the sum until such bonded indebtedness has been liquidated by said company and upon such liquidation, the said sum with interest so retained shall be paid to said company. Any extensions or betterments made by the company after the appraisalment, and before completion or purchase, shall be added to value fixed by the Railroad Commission and become a part of the purchase price, but no such betterments or extensions in excess of a total of \$1,000 shall be made without the consent of the Commission. Upon payment in full by the city to the company of the purchase price, or payment partly in money and partly by the assumption of indebtedness, the company agrees to execute necessary surrenders, grants, releases and conveyances, and to deliver to said city possession of said property.

If at the time the city purchases said property the company shall be operating interurban lines in connection with its lines within the city, the company shall have the right to operate its interurban cars over the lines within the city to some definite fixed central point, for the transportation of passengers and United States mail only, upon division of operating expenses and return on investment based on car mileage; but it shall not, except with the consent of the Commission, transport passengers from one point within said city to another point therein.

In fixing the valuation of the property owned by the company for any of the purposes considered in this franchise, only the value of the property devoted to public service shall be included, provided, however, in case of purchase by the city, property of prospective public use may be included at option of city.

Should the city fail to complete said purchase within said year, or in event of litigation regarding same within one year after final determination thereof, then the notice electing to terminate said franchise and acquire properties of the company shall be deemed waived, unless the company shall grant an extension of time, and

said franchise shall continue in force, subject to all its terms, with the right of the city to again institute proceedings to acquire the same at any ten year period, it being understood that the right to terminate this franchise and acquire said property at any ten year period is a continuous one, that is never lost during the existence of said franchise.

It is agreed that the city shall have the right to acquire all private rights of way owned by the company and upon which it is operating street railways, and such private rights of way and street railways constructed thereon shall be deemed to be a part of the property of the company used and useful in the public service and to be operated by it under this resettlement franchise, and shall be taken into account by the Railroad Commission in fixing rates and valuation, in the event the city shall acquire the same.

It is further agreed that any valuation of the properties of the company by the Railroad Commission for the purpose of fixing rates shall not be binding upon nor estop either the Railroad Commission or the city, whether fixed after a contest or adjudication or by consent of said city, for any purpose except that of fixing rates, and when and if the city demands a valuation for purpose of acquisition, the Railroad Commission shall fix and appraise the physical properties of the company anew as they then are, and no prior adjudication or determination shall be conclusive."

In view of the fact that the Public Utilities Act prescribes a method of procedure under which cities and other political subdivisions of the state may acquire the property of public utilities by condemnation or otherwise, the question was raised of the effect of the franchise provision just quoted. Counsel for applicant and for city, upon the request of the presiding Commissioner, filed briefs upon that point. There appears to be doubt to what extent, if at all, this franchise provision could be construed as impairing the jurisdiction of the Railroad Commission to fix the value of this property for the purpose of eminent domain, under section 23, article XII of the constitution. To consider in this proceeding the various possible constructions of the section would appear to be a moot discussion. Since the Commission is not at this time called upon to pass upon the validity of what might be called the restrictive sections of this franchise it will be sufficient if in this decision the question of the validity of section 19 is expressly reserved for future consideration.

The following form of order is suggested:

ORDER.

Fresno Traction Company having applied to the Commission for authority to abandon certain street railway franchises in the city of Fresno, for a certificate of public convenience and necessity for the exercise of resettlement franchises and for authority to execute a supplemental mortgage covering such resettlement franchise, a public hearing having been held and the Commission basing its findings of fact and its order on the foregoing opinion:

It is hereby ordered,

(a) Authority is hereby granted to Fresno Traction Company under section 51 (a) under the Public Utilities Act to surrender and abandon its existing street railway franchises in Fresno, California, to the city

of Fresno, in accordance with section 6 of Ordinance No. 964 of the city of Fresno dated February 16, 1922, to which ordinance specific reference is hereby made;

(b) It is hereby found as a fact that public convenience and necessity require the exercise by Fresno Traction Company of the rights, privileges and franchises granted by said Ordinance No. 964 and a certificate of such public convenience and necessity is granted herewith;

(c) Authority is hereby granted to Fresno Traction Company, under section 51 (a) of the Public Utilities Act, to execute a supplemental mortgage to Union Trust Company of San Francisco, as trustee, of the rights granted to Fresno Traction Company by said Ordinance No. 964 of the city of Fresno in lieu of the franchise rights abandoned and surrendered.

The authority herein granted to Fresno Traction Company is granted subject to the condition that nothing contained in said Ordinance No. 964 and in this order shall be construed to interfere with the exercise of this Commission's regularly constituted authority under the Public Utilities Act in future rate cases or in any other proceeding before this Commission.

The Commission reserves the right to make such further orders as may be necessary in this proceeding.

Dated at San Francisco, California, this third day of May, 1922.

DECISION No. 10402.

IN THE MATTER OF THE INVESTIGATION, ON THE COMMISSION'S OWN MOTION, INTO THE REASONABLENESS AND ADEQUACY OF SERVICE AND OF FACILITIES FOR SERVICE, BY THE LOS ANGELES GAS AND ELECTRIC CORPORATION, SOUTHERN CALIFORNIA GAS COMPANY AND SOUTHERN COUNTIES GAS COMPANY.

Case No. 1717.

Decided May 3, 1922.

SERVICE—GAS UTILITIES—STORAGE HOLDERS.—After a careful engineering investigation of gas requirements, the Los Angeles Gas and Electric Corporation is directed to proceed at once with plans for the erection of an outlying gas storage holder of 7,000,000 to 10,000,000 cubic feet capacity in the western part of Los Angeles and of 5,000,000 cubic feet capacity in the city of Pasadena. Southern Counties Gas Company is ordered to provide sufficient facilities for distributing to the consumers gas from proposed new storage holder of 2,000,000 cubic feet at its Venice plant.

SERVICE—HEATING VALUE—TESTS ORDERED.—Companies serving Los Angeles district are directed to submit plans for installing equipment to determine the average heating value of commercial gas furnished domestic consumers.

SERVICE—PRESSURE—RECORDING GAUGES.—Companies serving Los Angeles are directed to maintain and operate during the peak season portable recording pressure gauges in representative locations. Southern California Gas Company is directed to proceed with the installation of a 3,000,000 cubic foot gas holder in Los Angeles and the enlargement of its gas works.

SERVICE—PEAK LOAD REQUIREMENT —UNSATISFACTORY SERVICE.—The Commission found that the peak load requirement in the Los Angeles district, exceeding the combined total peak day demands of all other communities in California, is the underlying cause of most of the unsatisfactory gas service and results from the very general use of gas fuel, little or no provision being made for use of other fuels.

SERVICE—WAITING PERIOD.—While the Los Angeles district has for the past several years grown at a most rapid rate, thereby requiring that an immense amount of new commercial gas mains be installed, the Commission expresses the view that no bona fide applicant for domestic service should be required to wait more than sixty days before receiving service. The utilities are urged to make efforts to reduce this period materially.

Paul Overton and S. W. Guthrie, for Los Angeles Gas and Electric Corporation. O'Melveny, Millikin and Tuller, by Paul Fussell, for Southern California Gas Company.

A. F. Bridge, for Southern Counties Gas Company of California.

Jess E. Stephens, for City of Los Angeles.

Thos. A. Berkebile, for City of Monterey Park.

BRUNDIGE AND BENEDICT, Commissioners.

OPINION.

The Railroad Commission instituted this proceeding upon its own motion for the purpose of determining whether the practices, equipment or facilities for the manufacture, transmission, distribution, storage or supply of gas for domestic, commercial and industrial purposes by Los Angeles Gas and Electric Corporation, Southern California Gas Company and Southern Counties Gas Company of California are improper or inadequate; and also to determine whether additions or improvements to the existing equipment of said utilities, or any of them, ought reasonably to be made, or whether any new facilities should be installed in order to assure adequate gas service by said utilities hereafter.

Hearings were held in this matter in Los Angeles on March 15 and 16, 1922, at which time evidence was presented by the Commission's engineers, L. S. Ready and H. L. Masser, by representatives of the utilities and by the city of Los Angeles, and the matter was thereupon submitted. It was stipulated that such maps, data and reports as might be required by the Commission's engineers should be prepared by the utilities and be considered in evidence in this case. These data are now before the Commission and the matter is now ready for decision.

With the occurrence of very cold weather in the Los Angeles district during the latter part of January, 1922, and again in February, 1922, severe gas shortages occurred, several districts being completely without gas for periods of a number of hours at a time, and in other localities pressures were so low that useful quantities of gas could not be obtained by the consumers.

This situation resulted from the unprecedented growth of Los Angeles and vicinity, which taxed all classes of utility service to the

utmost. Gas companies because of the nature of their operations have encountered more difficulty than other utilities in endeavoring to keep abreast of the demand for new facilities. A study made by the Commission of the operating statistics of Los Angeles Gas and Electric Corporation, which are typical for the district, shows very clearly tremendous increases in gas requirements experienced during the past two years. The rate of increase of peak winter day loads has been relatively much greater than the increase of the total annual requirements. On January 8, 1920, the Los Angeles Gas and Electric Corporation sent out 37,123,000 cubic feet of gas; the following year on January 11, 1921, the send-out increased to 52,296,000 cubic feet; while on January 20, 1922, the send-out amounted to 70,696,000 cubic feet. It is interesting to note that the peak day demand for gas in the Los Angeles district exceeds the combined total peak day demands of all other communities in California. This peak load requirement is the underlying cause of most of the unsatisfactory gas service and results from the very general use of gas fuel for heating in Los Angeles and the fact that consumers in general make little or no provision for the use of other fuels even during emergencies.

Large numbers of complaints have been received because of the inadequate gas service in the Los Angeles district, especially from consumers of the Los Angeles Gas and Electric Corporation. Many users were for periods completely without gas, while others were able to obtain gas only at such extremely low pressures that it could not be efficiently utilized. As an aftermath of the trouble on peak days further annoyance of a more continued nature was experienced by a large number of patrons of the Los Angeles Company because of the condensation of moisture and naphthalene in service lines, thereby cutting off the proper flow of gas to the consumer. These difficulties were caused by the necessity of forcing the gas production of the plant beyond capacity for properly cooling and purifying.

In the Santa Monica Bay district complete failure of the gas supply and unreasonably low pressures caused a great hardship to many consumers. This locality is served directly by Southern Counties Gas Company, distributing gas purchased in wholesale from Southern California Gas Company. The service is nominally "mixed gas" of 750 British thermal units per cubic foot, the same as established for Los Angeles. However, because of the tremendous increase in demand it has been necessary during the past two winter seasons to bring in a supply of natural gas for pressure boosting from the lines of Southern California Gas Company near Redondo. This method of operation has resulted in an excessive fluctuation in the quality of the gas and has contributed to unsatisfactory service.

Certain localized districts in the eastern division of Southern Counties Gas Company also have experienced minor troubles during the cold weather. This has resulted from small sized mains and abnormally heavy loads. Such conditions are now rapidly being remedied by the installation of short feeder lines as required.

By the introduction of large quantities of high pressure natural gas into its distribution mains in the southwestern part of Los Angeles and in Glendale, Southern California Gas Company has been able to maintain adequate pressures on its system. This method of operation has, however, caused wide fluctuations in the heating value of gas delivered to consumers and has drawn heavily upon the total quantity of natural gas available to the Los Angeles district during the winter periods.

The general condition of inadequate and unsatisfactory gas service has been most acute on the system of the Los Angeles Gas and Electric Corporation. This company is serving the major portions of the mixed gas district with many consumers located at great distances from gas plant or holders. During the periods of abnormally heavy demands the company was confronted with the inadequacy of its production and distribution facilities. As a result of this winter's experience the Commission advocated at the hearing of this case that, in addition to the construction program approved by Los Angeles Gas and Electric Corporation, this utility should erect large outlying gas storage holders in order that a substantial supply of gas might be immediately available to the demands of the consumers in districts remote from the gas works.

The company has presented to the Commission a statement setting forth a detail of the new construction work to be undertaken this year, including new gas generators of 21,000,000 cubic feet daily capacity, together with the necessary auxiliary equipment, two one-million cubic feet per hour gas compressors, and a system of very extensive 16-inch high pressure trunk lines for largely increasing the gas delivery to Pasadena, Hollywood, Monterey Park and the southern portion of the Los Angeles district, and also other miscellaneous pressure reinforcing lines and commercial mains, all of which items in total involve an expenditure of over \$7,220,000. This is in addition to the completion of the 10,000,000 cubic foot holder now under construction. After a careful engineering investigation of local gas requirements it appears that in addition to these improvements the company should commence the construction of large outlying gas holders in order to assure adequate gas service and to permit of more efficient and uniform operation of the gas plant. We are therefore of the opinion that Los Angeles Gas and Electric Corporation should proceed at once with plans for the erection of an outlying gas storage holder of from 7,000,000 cubic feet

to 10,000,000 cubic feet in the western part of Los Angeles, and also one of lesser capacity in Pasadena. If possible the latter holder should be completed prior to next winter.

To improve service conditions and meet increasing demands upon its system, Southern California Gas Company has reported to the Commission that it has undertaken to enlarge its generating plant by 4,000,000 cubic feet daily capacity, to construct a 3,000,000 cubic foot storage holder and compressors in the southwestern part of Los Angeles and to install extensive pressure reinforcing mains in its distribution system. The enlargement of distribution facilities and the installation of the holder will eliminate the use of natural gas for "pressure boosting" in the southwestern part of Los Angeles and make material improvement of service.

As there has recently been a material increase in the production of natural gas in the oil fields east of Los Angeles, the Midway Gas Company is now preparing to lay two new 8-inch lines which will permit the delivery to Los Angeles of increased amounts of natural gas now contracted for from the Industrial Fuel Supply Company of Coyote Hills and also of additional gas which may be developed at Santa Fe Springs. When installed there will then be two complete 8-inch lines from Coyote Hills, and a similar sized independent line from Montebello, the combined capacity of which lines will amount to 35,000,000 cubic feet per day or slightly more than the capacity of the Midway lines from Kern County.

The improvement of service in the Santa Monica Bay district is dependent jointly upon Southern California Gas Company, which furnishes the gas in wholesale, and Southern Counties Gas Company which is the local distributing utility. This district has for some time been served with mixed gas through a 6-inch line of Southern California Gas Company, terminating at Sawtelle. During the past two winter seasons this line has, however, been inadequate to meet the demands placed upon it, and it has therefore been necessary to procure in addition a quantity of natural gas through a pipe line delivering into the southern end of this district. Careful plans were prepared for the operation of this line prior to the winter season, but because of unforeseen difficulties and low gas pressures during periods of heaviest demand, failures occurred which resulted in gas shortages in Santa Monica.

Southern Counties Gas Company has submitted to the Commission a report covering additional facilities authorized by that company for the improvement of service in the Santa Monica Bay district. This new equipment includes a 2,000,000 cubic foot gas holder and compressors and auxiliaries for pumping 200,000 cubic feet of gas per hour into the distribution system from the storage holder. The present Sawtelle line

is capable of delivering 70,000 cubic feet per hour and the line connecting with the Southern California Gas Company's new outlying holder will be able to furnish about 250,000 cubic feet per hour. The estimated gas delivery rate to the district is therefore 320,000 cubic feet per hour. With the completion of the holder the delivery rate to the distribution system may as required be increased from storage to a total of 520,000 cubic feet. The peak hour requirement for the winter of 1922-23 is estimated at 333,000 cubic feet, thus showing an ample allowance for safety. The total installed holder capacity in the Santa Monica district is 2,450,000 cubic feet, while the estimated peak day load for 1923 is 4,250,000 cubic feet. This is a liberal provision and should prevent any gas outages. Steps, however, must be taken to provide sufficient facilities for distributing the gas from storage to the consumer, and careful pressure surveys should be made by the company in order to locate low pressure areas so that any necessary pressure reinforcing mains may be promptly laid.

The attention of the Commission has been directed to the matter of the future gas supply for the city of Glendale. This district, which is located at the terminal of the Midway transmission line, at present receives nominally "mixed gas" service of 750 British thermal units per cubic foot quality, supplied through a 6-inch pipe line from the plant of Southern California Gas Company in Los Angeles. The natural gas is transmitted to Southern California Gas Works, there mixed, recompressed and transmitted back to Glendale. This line has now become inadequate to carry the required amount of gas during the hours of heavy demand, and as there are no holders for the storage of gas in Glendale, natural gas from the Midway gas line has therefore been used for boosting pressures as required.

Estimates based upon the rendering of strictly mixed gas service indicate that the annual gas sales in Glendale for the year 1923 will amount to about 375,000,000 cubic feet, while during the peak month there will be required about 78,000,000 cubic feet of mixed gas which would contain 35,000,000 cubic feet of natural gas. The peak month demand with natural gas service is estimated at 60,000,000 cubic feet for January, 1923. In other words, 25,000,000 cubic feet more natural gas would be required during the maximum month if straight natural gas service should be established. Careful investigation shows that the present method of serving this community is not as efficient nor as economical from the consumers' standpoint as the service of straight natural gas would be. Natural gas must now be transmitted from Glendale to Los Angeles, there mixed with artificial gas, recompressed and returned to Glendale. This procedure increases losses, uses additional fuel and makes difficult the rendering of satisfactory service during the winter season of heavy demand. To continue rendering

mixed gas service would require the installation of a new transmission line from the company's gas works in Los Angeles, or the erection of a large storage holder in Glendale. Either method would require the expenditure of nearly \$200,000 for the new equipment. Annual interest, depreciation and maintenance charges on the pipe line or holder, together with compression costs and other expenses connected with operating the Glendale division upon a strictly mixed gas basis, would result in approximately \$34,000 per year more being added to the cost of service in the entire Los Angeles district than would obtain if Glendale were served with natural gas. In addition, with the rapidly increasing demand for gas during the cold weather it will become more and more difficult to render satisfactory mixed gas service from the distant generating plant.

The city of Los Angeles has for a number of years opposed the enlargement of the surrounding district now being served with natural gas which would thereby result in a reduction of the remaining amount of natural gas available to that city. While the establishment of straight natural gas service in Glendale would withdraw approximately 830,000 cubic feet per day, or 25,000,000 cubic feet additional natural gas during the maximum month from the general supply to Los Angeles city district, it is to be noted that other operating changes would more than offset this. By the substitution of mixed gas in place of natural gas now used for pressure boosting in Los Angeles and Santa Monica, there will be available to the city of Los Angeles approximately 54,000,000 cubic feet of natural gas per month for mixing purposes in addition to the amount which would be available under a continuation of the present operating methods.

It would appear that the entire district served by Southern California Gas Company should be considered as a unit, and if the economical step is to supply natural gas to Glendale, this should be done. Consumers there should pay, however, the rates now established for natural gas service, as they would receive gas of a higher heating value which would have a direct effect in lessening gas bills and the net result to the consumer would not be an increase, but an actual reduction of costs for the service received. By the establishment of the slightly higher natural gas rates in Glendale, compensation would be made for the taking of the natural gas from the general supply, and no burden would be placed upon the other districts. In view of the advantages to be gained with expenses saved and the very minor effect upon gas supply to Los Angeles and the further fact that natural gas pressure boosting is to be discontinued in Los Angeles and Santa Monica, thereby increasing materially the natural gas for mixing purposes in the Los Angeles district, we are of the opinion that the city of Glendale should be served with straight natural gas.

Because of the unsatisfactory pressure conditions which have existed upon portions of the system of the Los Angeles Gas and Electric Corporation, and which have contributed very largely to many complaints by consumers because of insufficiency of gas supply, it appears that a very careful survey of pressures at consumers' meters should be made next winter. General Order No. 58 of this Commission prescribes that each gas company shall maintain at least one recording pressure gauge for each 100 miles of mains and take at least one 24-hour chart per week for each gauge. These requirements, in view of the very unsatisfactory pressure conditions which have existed during the past winter season, are not sufficient, we believe, to make certain that no unreasonably low pressure areas develop during periods of heavy loads. We are, therefore, of the opinion that Los Angeles Gas and Electric Corporation should maintain at least twenty (20) portable recording pressure gauges of a type approved by the Commission, and take an average of five (5) charts per week per gauge, in the manner prescribed by General Order No. 58, during the period from November 1, 1922, to March 31, 1923. These charts should be delivered to a competent engineer who should carefully inspect them, noting any unsatisfactory pressure conditions and reporting the location of the same to the proper department of the company in order that necessary remedial measures may be had.

Low pressure conditions have occurred on the system of Southern Counties Gas Company in Santa Monica and Southern California Gas Company in Los Angeles. Extensive pressure surveys should be made during the coming winter season by these utilities in the districts mentioned.

For a number of years there has existed a material difference in the recorded heating value of commercial gas reported by the city of Los Angeles and Los Angeles Gas and Electric Corporation and Southern California Gas Company. The gas sent out from the gas works under severe weather conditions varies over a wide range both as to quality and quantity, during various hours of the day. In order that a reliable and reasonably accurate record be had of the average quality of gas delivered to the consumer, it appears that Los Angeles Gas and Electric Corporation and Southern California Gas Company should install equipment for obtaining representative average samples of gas sent out each day, from which the heating value can be determined.

Considerable complaint has arisen in the Los Angeles district among applicants for service from Los Angeles Gas and Electric Corporation because of the delay experienced in obtaining gas service. An investigation of facilities, equipment and men employed upon this work by Los Angeles Gas and Electric Corporation indicated that this company has employed relatively less equipment and men in such work than

Southern California Gas Company, a smaller utility operating in the same locality. While the Los Angeles district has for the past several years grown at a most rapid rate, thereby requiring that an immense amount of new commercial gas mains be installed, this Commission has been of the opinion that no bona fide applicant for domestic service who is entitled to the same should be required to wait more than sixty days before receiving service. Efforts should, however, be made by the utility to reduce this period materially.

ORDER.

The Railroad Commission having instituted, upon its own motion, an investigation into the practices, equipment, appliances or facilities for the manufacture, distribution, transmission, storage or supply of gas for domestic, commercial and industrial purposes by the Los Angeles Gas and Electric Corporation, Southern California Gas Company and Southern Counties Gas Company of California, to determine whether they are unreasonable or inadequate in any particular, and further to determine whether any additions or improvements to the same ought reasonably to be made, hearings having been held and the matter having been submitted and now being ready for decision;

It is hereby ordered:

(1) That Los Angeles Gas and Electric Corporation shall commence the installation and carry to completion at the earliest possible date, in addition to the items shown by the statement of enlargements and improvements to its gas system submitted by it at the hearing of this case—

(a) An outlying gas storage holder of from 7,000,000 to 10,000,000 cubic feet capacity, in the western part of Los Angeles City, together with such auxiliary equipment as may be necessary for the proper delivery of stored gas to the distribution mains.

(b) An additional gas storage holder of approximately 5,000,000 cubic feet capacity, in the city of Pasadena, for supplying that general district.

(2) That the Los Angeles Gas and Electric Corporation prepare and submit for approval to the Commission on or before July 1, 1922, plans for the installation of equipment necessary for better determining the average heating value of commercial gas furnished to its domestic consumers.

(3) That Los Angeles Gas and Electric Corporation shall maintain and operate during the period from November 1, 1922, to March 31, 1923, at least twenty (20) portable recording pressure gauges, of a type approved by this Commission, with which an average of one hundred (100) or more 24-hour charts per week shall be taken at con-

sumers' meters in representative locations throughout its system in the manner prescribed by General Order No. 58 of this Commission.

(4) That Southern California Gas Company proceed with the installation of additions and improvements to its system as set forth in its statement submitted to this Commission, comprising a 3,000,000 cubic foot gas holder in Los Angeles, together with compressors, trunk lines, production equipment and accessories for the enlargement of its gas works as specifically detailed.

(5) That Southern California Gas Company prepare and submit for approval to the Commission, on or before July 1, 1922, plans for the installation of equipment necessary for better determining the average heating value of commercial gas furnished to its domestic consumers.

(6) That Southern California Gas Company shall maintain and operate during the period from November 1, 1922, to March 31, 1923, at least five (5) portable recording pressure gauges, of a type approved by this Commission, with which an average of twenty-five (25) or more 24-hour charts per week shall be taken at consumers' meters in representative locations throughout its Los Angeles city district, in the manner prescribed by General Order No. 58 of this Commission.

(7) That Southern Counties Gas Company of California proceed with the installation of additions and improvements to its system provided for in its statement submitted to this Commission, including the erection of a 2,000,000 cubic foot gas holder at its Venice gas plant with compressors and other auxiliary equipment required, and also pressure reinforcing mains in its several districts in accordance with its detailed report.

(8) That Southern California Gas Company make a study of the matter of increasing future deliveries of mixed gas to Southern Counties Gas Company at Sawtelle, and that plans be prepared and submitted to this Commission by July 1, 1922, for the installation of additional facilities for this purpose.

(9) That Southern Counties Gas Company of California shall maintain and operate during the period from November 1, 1922, to March 31, 1923, at least four (4) portable recording pressure gauges, of a type approved by this Commission, with which an average of twenty (20) or more 24-hour charts per week shall be taken at consumers' meters in representative locations throughout the western division, in the manner prescribed by General Order No. 58 of this Commission.

Southern California Gas Company is hereby authorized to supply natural gas in the city of Glendale and adjacent district served from the distribution system supplying Glendale on and after July 1, 1922, and upon the introduction of such natural gas to make effective its Schedule A-6 for such natural gas served, based on regular meter read-

ings taken on and after 30 days from the date natural gas service is commenced.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this third day of May, 1922.

DECISION No. 10403.

IN THE MATTER OF THE APPLICATION OF WHITTIER WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ISSUE REFUNDING PROMISSORY NOTES.

Application No. 7740.

Decided May 3, 1922.

J. S. Bennett, for Applicant.

BY THE COMMISSION.

OPINION.

In this application, Whittier Water Company asks permission to issue \$100,000 face value of three-year 7 per cent notes for the purpose of refunding outstanding notes and for the improvement and maintenance of its facilities and service. The company also asks permission, if found necessary, to execute a mortgage on certain of its properties to secure the payment of its notes.

A public hearing was held before Examiner Williams in Los Angeles on April 28, 1922.

The petition shows that pursuant to Decision No. 7609, dated May 24, 1920, the company issued the following notes:

Payee	Date	Due	Interest	Amount
Citizens National Bank of Los Angeles_	9/26/1921	6 Mos.	6%	\$7,500 00
Citizens National Bank of Los Angeles_	10/31/1921	6 Mos.	6%	7,500 00
Citizens National Bank of Los Angeles_	11/20/1921	6 Mos.	6%	10,000 00
First National Bank of Whittier-----	3/16/1922	demand	7%	10,000 00
First National Bank of Whittier-----	4/12/1920	demand	7%	10,000 00
Whittier National Bank -----	3/24/1921	demand	7%	12,000 00
Total -----				\$57,000 00

It appears that two 7 per cent demand notes in the aggregate amount of \$7,000 were issued subsequent to the date of the Commission's order, and that the moneys obtained from the issue of these notes were used to pay in part the cost of applicant's Judson plant.

Testimony shows that the holders of these notes, which aggregate \$64,000, are now requesting payment and that the company proposes to refund them through the issue of new notes. Applicant intends to use the moneys received from the issue of \$16,000 of notes to maintain its service and facilities, the testimony of J. B. Chaffey, applicant's

vice president and manager, showing that approximately this amount would be needed to maintain its service during the first part of the year. In the latter part of the year, during the pumping season, it is thought that revenues will be sufficient to meet all expense arising from operation. The remaining \$20,000 of notes will not be issued until authorized by the Commission in a supplemental order or orders.

The application shows that suits are now pending in the Superior Court of the State of California in and for the county of Los Angeles involving the extent of petitioner's rights to its water derived from its Bassett water-bearing lands, and other suits involving certain of its rights to its Judson water-bearing lands, but that its Bartolo water-bearing lands are not involved in any of the suits. Applicant is of the opinion that until these suits are determined or settled it will not be advisable to refund its notes on a permanent basis.

Applicant asks permission to secure the notes herein applied for, if found necessary, by a trust deed of its Bartolo water-bearing lands and water rights subject to existing liens. However, it has made no arrangements to dispose of its notes and for this reason has not filed a copy of the proposed trust deed, being unable to advise the Commission at this time whether it will be necessary to execute such an instrument.

The Commission can not authorize the execution of a trust deed until after a copy of the proposed trust deed has been submitted. The order herein, therefore, will authorize the issue of unsecured notes. In the event that applicant desires to secure the payment of its notes, it must file a copy of a proposed trust deed. If it is found to be in satisfactory form the Commission, by supplemental order, will authorize its execution.

ORDER.

Whittier Water Company, having applied to the Railroad Commission for permission to issue notes and to execute a mortgage, a public hearing having been held and the Railroad Commission being of the opinion that the application should be granted to the extent indicated in this order and that the money, property or labor to be procured or paid for by the issue of notes is reasonably required by applicant;

It is hereby ordered, that Whittier Water Company be and it is hereby authorized to issue at not less than face value \$100,000 of three-year notes bearing interest at not to exceed 7 per cent per annum.

The authority herein granted is subject to the following conditions:

1. Of the notes herein authorized \$80,000 may be issued or sold for the purpose of refunding the notes referred to in the foregoing opinion and for the maintenance and improvement of applicant's facilities and services.

2. The remaining \$20,000 of notes may not be sold or otherwise disposed of except as authorized by the Commission in a supplemental order or orders.

3. Applicant may, if it so desires, issue the notes herein authorized for a term of less than three years and renew them from time to time, provided that the combined terms of the notes and of those issued in renewal do not exceed three years from the date of this order.

4. Applicant shall keep such record of the issue of the notes herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$43.

Dated at San Francisco, California, this third day of May, 1922.

DECISION No. 10404.

IN THE MATTER OF THE APPLICATION OF SAN JOSE WATER WORKS,
A CORPORATION, FOR PERMISSION TO SELL STOCK AND PAY
OUTSTANDING NOTES.

Application No. 7777.

Decided May 3, 1922.

Joseph R. Ryland, for Applicant.

BENEDICT, Commissioner.

OPINION.

San Jose Water Works asks permission to issue and sell at not less than par \$260,400 of its common capital stock for the purpose of financing the cost of additions and betterments referred to below and through such financing pay outstanding notes and reimburse its treasury on account of earnings expended for additions and betterments.

Applicant reports that from December 1, 1920, to March 31, 1922, it expended for additions and betterments to its plants and properties the sum of \$311,893.59, which expenditures it segregates as follows:

Tangible capital—	
Land devoted to water operations.....	\$13,861 59
Buildings, structures and grounds	3,959 33
Source of water supply—	
Impounding dams and reservoirs.....	\$2,298 88
Wells	17,733 60
Collecting reservoirs	3,005 64
Pumping station equipment—	
Pumping equipment	22,710 71

Transmission and distribution capital—	
Distribution mains	\$87,140 16
Hydrants	359 50
Services	17,613 60
Meters	56,579 53
General capital—	
Office equipment	223 12
Shop equipment	727 92
Stable and garage	4,780 01
Total	\$311,893 59

Applicant corporation was organized on or about February 1, 1916, with an authorized stock issue of \$2,500,000, divided into 25,000 shares of the par value of \$100 each. Stock in the amount of \$2,153,900 is reported outstanding. Of this stock, \$1,500,000 was issued as part payment for the properties of the San Jose Water Company. The remainder of the stock, \$653,900, was issued and sold to finance additions and betterments to applicant's plant and properties. The larger part of the \$653,900 of stock was sold by the company at \$105 per share. It appears from the record that applicant has not had to incur any expenses in connection with the sale of its stock. It has for many years past been paying an annual dividend of 6 per cent.

As of March 31, 1922, applicant reports assets and liabilities as follows:

Asset accounts—	
Fixed capital	\$2,601,826 43
Cash	7,374 01
Accounts receivable	16,014 42
Garden City Bank and Trust Company	2,020 94
Liberty bonds	40,000 00
Materials and supplies	43,050 51
Collector's fund	90 00
Prepaid insurance	891 30
Suspense	2,125 23
Total	\$2,713,392 84
Liability accounts—	
Capital stock	\$2,153,900 00
Notes payable	235,400 00
Accounts payable	170 35
Appreciation of fixed capital	931 86
Insurance reserve	8,282 28
Premium on capital stock	30,255 00
Reserve for accrued depreciation	243,700 42
Taxes accrued	6,259 20
Service billed in advance	227 05
Engineering	1,084 19
Corporate surplus	33,182 49
Total	\$2,713,392 84

Applicant is paying 6 per cent interest on the \$235,400 of outstanding notes. It proposes to sell \$235,400 of stock, or such portion thereof as may be necessary, to pay the outstanding notes. Stock in the amount

of \$25,000 will be sold by applicant and the proceeds used to reimburse its treasury on account of earnings expended for additions and betterments.

I believe this application should be granted and herewith submit the following form of order:

ORDER.

San Jose Water Works having applied to the Railroad Commission for permission to issue and sell \$260,400 of its common capital stock, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purposes specified in this order and that such purposes are not reasonably chargeable to operating expenses or to income;

It is hereby ordered, that San Jose Water Works be and it is hereby authorized to issue and sell, on or before December 31, 1922, at not less than par, \$260,400 par value of its common capital stock for the purpose of financing in part the cost of additions and betterments described in this application, and through such financing pay notes aggregating \$235,400 and reimburse its treasury in the amount of \$25,000 on account of earnings expended for additions and betterments; provided

That San Jose Water Works will keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this third day of May, 1922.

DECISION No. 10407.

ROSENBERG BROTHERS AND COMPANY ET AL.

vs.

SOUTHERN PACIFIC COMPANY ET AL.

Case No. 1585.

Decided May 3, 1922.

BY THE COMMISSION.

OPINION DENYING PETITION FOR REHEARING.

The complainants in the above entitled proceeding have petitioned the Commission for a rehearing, setting forth as grounds for such petition that the Commission did not decide whether the rates in issue

were or were not unreasonable and, by inference, that the Commission did not follow the evidence.

The Commission's Decision No. 10215, rendered March 21, 1922, dismissed the complaint and clearly set forth in the opinion preceding the order therein the reasons therefor.

The complainants, Rosenberg Brothers and Company et al., petitioned the Commission to grant reparation on shipments of paddy rice moved within the State of California between January 1, 1917, and the date of the complaint, April 15, 1921, but during the proceedings it was stipulated that no consideration should be given to shipments moved prior to April 16, 1919.

The opinion in the original proceeding in effect set forth that during the period December 31, 1917, to March 1, 1920, the railroads were under government control and state commissions had no jurisdiction over government controlled lines. Effective March 1, 1920, the railroads were turned back to their owners under the terms of Transportation Act, 1920, which provided a transition period from March 1, 1920, to September 1, 1920, during which period the government's guaranty prevailed and under the law no reductions could be made in the rates of any of these carriers during that time without permission from the Interstate Commerce Commission.

Paddy rice rates were prescribed by this Commission's Decision No. 8517, rendered January 6, 1921, in Cases Nos. 1432 and 1437 and, as indicated in that decision, the general adjustment of paddy rice rates resulted in both increases and decreases and the Commission found that reparation should not be awarded on adjustments of that character involving both advances and reductions.

Careful consideration has been given to the complainants' petition for a rehearing and we are of the opinion that the petition is without merit and should be denied.

ORDER.

Complainants having filed a petition for rehearing in the above entitled proceeding, due consideration having been given thereto, and no good reason offering why such petition should be granted;

It is hereby ordered, that said petition be and the same is hereby denied.

Dated at San Francisco, California, this third day of May, 1922.

DECISION No. 10409.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN SIERRAS POWER COMPANY, AN ELECTRICAL CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF THREE HUNDRED THIRTY-NINE THOUSAND, THREE HUNDRED TWENTY-ONE DOLLARS AND NINETY-FOUR CENTS PAR VALUE, FIRST AND REFUNDING MORTGAGE SERIES "B" GOLD BONDS, THE SAME BEING ADDITIONAL TO THE ISSUE OF SIX MILLION, EIGHT HUNDRED TWENTY-EIGHT THOUSAND, NINE HUNDRED SEVENTY-FIVE DOLLARS AND EIGHTY-SEVEN CENTS PAR VALUE OF BONDS HERETOFORE AUTHORIZED BY THE RAILROAD COMMISSION OF CALIFORNIA.

Application No. 7781.

Decided May 4, 1922.

Chas. F. Potter, for Applicant.

BRUNDIGE, Commissioner.

OPINION.

The Southern Sierras Power Company asks permission to issue and sell at not less than 85 per cent of their face value and accrued interest \$339,321.94 of first and refunding mortgage 6 per cent series "B" gold bonds due January 1, 1965, for the purpose of financing in part the cost of extensions, additions and betterments to its properties.

Applicant reports that from May 1, 1921, to February 28, 1922, both inclusive, it has added to its properties and property rights certain extensions, additions and betterments aggregating in value the sum of \$399,202.28. This amount includes \$32,277.04 expended on the Owens River Gorge project. The expenditures which are described in detail in Exhibit "C" attached to the petition are reported to have been made from income and from advances received from system corporations. The \$339,321.94 of bonds which applicant asks permission to issue represents 85 per cent of the \$399,202.28.

P. R. Ferguson, applicant's auditor, testified that arrangements had been made to sell the bonds at 85 per cent, and the proceeds would be used by applicant to pay, in part, advances made to it by the Nevada California Electric Corporation.

Applicant's balance sheet, Exhibit "B", as of February 28, 1922, shows that it is indebted to system corporations in the sum of \$2,936,913.85. The order herein will provide that the proceeds realized from the sale of the bonds must be applied to the payment of indebtedness.

The record shows that on July 12, 1921, the United States District Court of California made and entered its judgment by which it was ordered, adjudged and decreed that certain of the properties formerly owned by the Mono Power Company and now owned by applicant, consisting of all the riparian rights in the Owens River, part and parcel of the east half of section 16, township 5 south, range 31 east, together

with a right of way for a tunnel through said land, be condemned to the use of the city of Los Angeles and the Board of Public Service Commissioners of Los Angeles, upon the payment to The Southern Sierras Power Company of the sum of \$525,000 and costs.

The company has appealed from this decision and the matter is now under consideration by the Circuit Court of Appeal.

It appears that the properties involved in this condemnation suit constitute a relatively small portion of the entire properties owned by applicant. Should the courts finally decide in favor of the city and the company realize less than it has expended to acquire and construct the properties, the loss must be properly recorded and the amount of bonds outstanding reduced proportionately, or surplus earnings equal to the loss invested in the properties and no securities issued on account of such investment.

I herewith submit the following form of order:

ORDER.

The Southern Sierras Power Company having applied to the Railroad Commission for permission to issue and sell bonds, a public hearing having been held, and it appearing to the Railroad Commission that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified herein, and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that The Southern Sierras Power Company be and it is hereby authorized to issue and sell at not less than 85 per cent of their face value, plus accrued interest, \$339,321.94 of its first and refunding mortgage 6 per cent series "B" bonds due January 1, 1965, and to use the proceeds to finance in part the cost of additions, extensions and betterments described in exhibit "C" attached to the petition herein, and through such financing, pay indebtedness.

The authority herein granted is subject to further conditions as follows:

1. Applicant shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.
2. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$340.
3. The authority herein granted will apply only to such bonds as may be issued on or before October 1, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourth day of May, 1922.

DECISION No. 10415.

IN THE MATTER OF THE APPLICATION OF THE PLACERVILLE TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, AND THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, FOR AN ORDER AUTHORIZING THE PLACERVILLE TELEPHONE AND TELEGRAPH COMPANY TO SELL TO THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY ALL OF ITS TELEPHONE PROPERTY IN AND ADJACENT TO PLACERVILLE, EL DORADO COUNTY, CALIFORNIA, AND THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY TO PURCHASE AND ACQUIRE THE SAME.

Application No. 7473.

Decided May 4, 1922.

Wm. F. Bray, for The Placerville Telephone and Telegraph Company.
Pillsbury, Madison and Sutro, by *J. T. Shaw* and *B. F. Kabinowitz*, for The Pacific Telephone and Telegraph Company.

BY THE COMMISSION.

OPINION.

Public hearings were held by Examiner Westover at Placerville and San Francisco upon the above entitled application seeking authority to transfer to The Pacific Telephone and Telegraph Company a telephone exchange in and about Placerville.

The proposed purchase price is \$13,000, which appears from the testimony herein to be reasonable. The Placerville Telephone and Telegraph Company wishes to retire from business and The Pacific Telephone and Telegraph Company is ready, willing and able to operate the property in connection with its statewide service. The Pacific Company proposes to continue the present rates in effect.

It appears from the testimony that service is unsatisfactory on account of the condition of the exchange property, as well as that of the farmer lines securing service from this exchange and on account of the fact that the company has not provided sufficient facilities to handle all business offered to it. A considerable number of instances exist in which more subscribers are connected with lines than is permitted by the grade of service for which they are paying. The above described condition makes necessary considerable reconstruction and rearrangement of present facilities and additions to plant and equipment, which The Pacific Company has agreed to complete within the time specified in the order.

ORDER.

Public hearings having been held upon the above entitled application, the matter being submitted and now ready for decision;

It is hereby ordered, that The Placerville Telephone and Telegraph Company, a corporation, be and it is hereby authorized and empowered to transfer to The Pacific Telephone and Telegraph Company, a corporation, the telephone property owned and operated by the former in and about Placerville in El Dorado County, and more particularly described in Exhibit "A" attached to the application, for the consideration of \$13,000; and as soon as the purchasing company has taken possession and is operating the property, the selling company is hereby authorized to discontinue service by means of said property.

The authority herein contained is granted upon the following conditions:

(1) Any transfer made hereunder shall be made within 60 days from the date hereof, and within 10 days after execution and delivery of any instrument of transfer the purchaser shall file with the Commission a copy thereof.

(2) Nothing herein contained shall be construed as a finding of value of said property to be transferred for any purpose other than the purposes set forth in the application herein.

(3) The Pacific Telephone and Telegraph Company shall operate said property at rates under which it is now operated until the further order of the Commission.

(4) The Pacific Telephone and Telegraph Company shall, within 90 days from the date hereof, place said property in good working condition and provide facilities to handle all business offered to it; within 120 days from the date hereof it shall have removed all instances in which more stations are connected to a line than are permitted in the highest grade of service furnished on that line; and within six months from date hereof shall have placed the entire Placerville exchange in good working condition.

(5) It appearing to the Commission from the testimony herein that, in order to furnish good service, it is necessary that the farmer lines be brought to a satisfactory standard of construction, and that nine months from the date hereof should be sufficient time to be allowed for that purpose; The Pacific Telephone and Telegraph Company is, therefore, directed to notify the owners of farmer lines of the desire of the Commission to have farmer-line construction brought to the standard recommended by the Commission within a period of nine months from the date hereof; and to cooperate with the owners of farmer lines to bring about within said period such standardized construction.

This matter is reserved for further supplementary orders herein relating to standardized construction of farmer lines.

Dated at San Francisco, California, this fourth day of May, 1922.

DECISION No. 10416.

IN THE MATTER OF THE APPLICATION OF EL SEGUNDO WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUANCE OF NOTES.

Application No. 7747.

Decided May 4, 1922.

Robert M. Clarke, for Applicant.

BY THE COMMISSION.

OPINION.

El Segundo Water Company asks permission to issue \$7,500 face value of five year 7 per cent unsecured promissory notes and to use the proceeds to refund outstanding indebtedness and to pay the cost of improvements, additions and betterments.

A public hearing was held before Examiner Williams in Los Angeles on April 28, 1922.

The company has made arrangements to issue its notes at face value. It proposes to use \$4,252.94 of the proceeds to pay outstanding notes and accounts, \$500 to re-cover the roof of a reservoir and the balance to purchase meters to take care of the present requirements for new services and replacements.

The testimony of Harold D. Dale, applicant's secretary, shows that the \$4,252.94 of indebtedness was incurred to pay for capital additions consisting, for the most part, of a new pumping plant and a well. His testimony further shows that of the new meters, about twenty-five per cent will be used to replace meters now in use. It appears that there will be no salvage value on either the meters or the reservoir roof which are to be replaced and that it is impossible to determine their original cost. These properties were installed approximately ten years ago and were acquired by applicant from El Segundo Land and Improvement Company pursuant to Decision No. 5775, dated September 18, 1918 (Vol. 16, Opinions and Orders of the Railroad Commission of California, page 76).

An amount equivalent to the actual or estimated original cost of property replaced is a charge against the reserve for accrued depreciation. It appears, however, that applicant's earnings have been inadequate to enable it to accumulate such a reserve. While it is believed that under present rates the company will earn an adequate reserve for

accrued depreciation, it must now make certain replacements and requests permission to borrow money for that purpose. Ordinarily the Commission will not permit a utility to borrow money to make replacements, but the facts of this case warrant a departure from the usual policy. It is understood that only the difference between the cost of replacing the property and the estimated original cost of the property replaced will be added to fixed capital account.

Applicant's rates have recently been adjusted by the Commission by Decision No. 9722, made on November 5, 1921, in Application No. 6840. In that proceeding the Commission's engineers estimated the original cost of applicant's properties as of July 1, 1921, as \$79,291. The probable maintenance and operating expenses were estimated at \$8,815 and the proper replacement annuity, applying to the total investment, computed by the 6 per cent sinking fund method, was found to be \$1,972.

ORDER.

El Segundo Water Company, having applied to the Railroad Commission for permission to issue notes, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant;

It is hereby ordered, that El Segundo Water Company be and it is hereby authorized to issue, at not less than face value, on or before October 31, 1922, \$7,500 of unsecured promissory notes payable on or before five years after date and bearing interest at not to exceed 7 per cent per annum, and to use the proceeds to refund the outstanding indebtedness, and to finance the cost of additions and betterments; all as indicated in the foregoing opinion and in this application.

The authority herein granted is subject to further conditions as follows:

1. El Segundo Water Company shall keep such record of the issue and sale of notes herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will not become effective until applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is \$25.

Dated at San Francisco, California, this fourth day of May, 1922.

DECISION No. 10417.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SALT LAKE RAILROAD COMPANY FOR AUTHORITY TO CONSTRUCT, MAINTAIN AND OPERATE A LINE OF RAILROAD FROM A POINT NEAR WHITTIER BOULEVARD AT THE SOUTH CITY LIMITS OF THE CITY OF WHITTIER, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, TO, THROUGH, AND TO THE SOUTH CITY LIMITS OF THE CITY OF FULLERTON, COUNTY OF ORANGE, SAID STATE, ACROSS TWENTY-FIVE STREETS AND PUBLIC HIGHWAYS, AND THE TRACKS OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY AND THE PACIFIC ELECTRIC RAILWAY COMPANY IN THE CONSTRUCTION OF ITS PROPOSED BRANCH LINE TO FULLERTON.

Application No. 2987.Decided May 5, 1922.

BY THE COMMISSION.

SUPPLEMENTAL ORDER.

Los Angeles and Salt Lake Railroad Company, having on March 13, 1922, filed with the Commission a supplemental application for permission to construct its Santa Ana branch line track at separate grade over a spur track of the Atchison, Topeka and Santa Fe Railway Company at engineers' station 792 plus 87.1 and at grade across an unnamed road at engineers' station 719 plus 73 in the city of Fullerton, said spur track and road having been established subsequent to the rendition by the Commission of Decision No. 4516 in the original application herein, the necessary franchise or permit having been granted by said city of Fullerton for the construction of said crossing at grade, it appearing that it is not reasonable nor practicable to avoid a grade crossing with said road, that this is not a case in which a public hearing is necessary and that this supplemental application should be granted subject to the conditions hereinafter specified, and it further appearing that said Decision No. 4516 should be amended as to the grades of approach of grade crossings and the approval by the Commission of the installation of automatic flagmen;

It is hereby ordered, that the order in Decision No. 4516 be and it is amended to read as follows:

It is hereby ordered, that permission be and the same is hereby granted Los Angeles and Salt Lake Railroad Company to construct its track at grade across the following public streets and highways, at the points and in the manner shown on the maps and profiles attached to the application, subject to the conditions to be hereinafter specified, and not otherwise:

Greenleaf road, Painter road, Barton avenue, Walnut avenue, Gunn road, Colima road, Cole road, Scott avenue and Leffingwell road, all in Los Angeles County.

Des Moines road, Leuhm road, Hiatt street, Main street, Aldrich avenue, Cypress street, Fullerton road (which is a state highway) and an unnamed road at engineers' station 566 plus 35, all in Orange County.

An unnamed road at engineers' station 719 plus 73, South Nicholas avenue, South Highland avenue and South Spadra road, all in the city of Fullerton.

The above grade crossings to be constructed subject to the following conditions:

(1) The entire expense of constructing the crossings, together with the cost of their maintenance thereafter in good and first-class condition for the safe and convenient use of the public, shall be borne by applicant.

(2) Said crossings shall be constructed of a width and type of construction to conform to those portions of said highways and roads now graded, with grades of approach not exceeding four (4) per cent; shall be protected by suitable crossing signs and shall in every way be made safe for the passage thereover of vehicles and other road traffic, except at said Fullerton road and South Spadra road crossings the rails shall be laid flush with the level of the pavement.

(3) The right of way of applicant in the vicinity of these crossings shall be entirely cleared for a distance of four hundred (400) feet from the crossings.

(4) Automatic flagmen of a type approved by the Commission and installed according to data or plans also approved by the Commission shall be installed and maintained at the expense of applicant for the protection of the following crossings:

Greenleaf road, Painter road, Barton avenue, Walnut avenue, Gunn road, Colima road, Cole road, Scott avenue, Leffingwell road, Des Moines road, Leuhm road, Hiatt street, the unnamed road at engineers' station 566 plus 35, South Nicholas avenue and South Highland avenue.

(5) For the protection of the Fullerton road (a state highway) applicant shall install, maintain and operate at its own expense suitable crossing gates in connection with the interlocking plant for the protection of the crossing of the Pacific Electric Railroad, to be hereinafter mentioned.

(6) For the protection of the South Spadra road applicant shall, at its own expense, install, maintain and operate suitable crossing gates of a type approved by the Commission.

It is hereby further ordered, that applicant be and the same hereby is granted permission to construct its tracks beneath the North Spadra road and above West Commonwealth avenue and an unnamed road at

engineers' station 704 plus 50, provided all clearances, both horizontal and vertical, shall not be less than the minimum specified in the Commission's General Order No. 26.

It is hereby further ordered, that applicant be and the same hereby is granted permission to construct its track at grade across a spur track of the Pacific Electric Railway Company at engineers' station 360 plus 88.4, near the Leffingwell road, provided that hand operated derails be placed on said spur track of Pacific Electric Railway Company each side of and not less than 50 feet from the point of crossing, said derails to be normally kept in a position to derail the trains of Pacific Electric Railway Company and provided further that after the installation of the crossing frogs, all engines, trains, motors and cars of applicant shall proceed over the crossing under full control, all engines, trains, motors and cars of the Pacific Electric Railway Company shall come to a full stop before passing over same.

It is hereby further ordered, that permission be and the same hereby is granted applicant to construct its track at grade over the main line of Pacific Electric Railway Company at engineers' station 554 plus 19.1, provided applicant shall, at its own expense, subject to such agreements as have been or may be made with Pacific Electric Railway Company, install a first-class, standard interlocking plant, the plans of which shall be approved by the Commission.

It is hereby further ordered, that applicant be and the same hereby is granted permission to construct its tracks beneath the located line and proposed tracks of Pacific Electric Railway Company at engineers' station 661 plus 66.9, provided all clearances conform in all respects to the Commission's General Order No. 26.

It is hereby further ordered, that permission be and the same is hereby granted applicant to construct its tracks above the main line tracks of the Atchison, Topeka and Santa Fe Railway Company at engineers' station 810 plus 17.2 and a spur track at engineers' station 792 plus 87.1, provided the clearances, both vertical and horizontal, conform to those prescribed in the Commission's General Order No. 26.

It is hereby further ordered, that the Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

Dated at San Francisco, California, this fifth day of May, 1922.

DECISION No. 10427.

IN THE MATTER OF THE APPLICATION OF JESSE S. HARKER AND THE ESTATE OF EDNA M. HARKER, DECEASED, TO SELL AND CONVEY AND OF BENJAMIN FRANKLIN NELSON AND ELIZABETH NELSON TO BUY AND OF BENJAMIN FRANKLIN NELSON AND ELIZABETH NELSON TO MORTGAGE THE MELVIN PLACE WATER PLANT LOCATED IN LOS ANGELES COUNTY, CALIFORNIA.

Application No. 7703.

Decided May 8, 1922.

Charles L. Evans, for Applicants.

BY THE COMMISSION.

OPINION.

In this application, Jesse S. Harker, individually and as administrator of the estate of Edna M. Harker, deceased, asks permission to sell and transfer certain public utility water properties to Benjamin Franklin Nelson and Elizabeth Nelson, both of whom have joined in the application and ask permission to purchase and acquire such properties.

In addition, Benjamin Franklin Nelson and Elizabeth Nelson ask permission to execute a mortgage on the properties and to issue a three-year 7 per cent note in the principal amount of \$4,000 in part payment for such properties.

A public hearing was held by Examiner Williams in Los Angeles on April 28, 1922. On May 3, 1922, Benjamin Franklin Nelson and Elizabeth Nelson filed a copy of the mortgage they propose to execute and the matter is now ready for decision.

The application shows that J. S. Harker has been operating a water system and business in the county of Los Angeles under the firm name and style of Melvin Place Water Plant, serving 398 consumers on December 31, 1921. The revenues and expenses of the system for the years ending December 31 are reported as follows:

	1918	1919	1920	1921
Revenues -----	\$3,023 04	\$3,232 22	\$4,239 12	\$5,701 29
Expenses -----	1,847 97	2,145 69	3,312 64	5,377 20
Net revenue -----	\$1,175 07	\$1,086 53	\$926 48	\$324 09

The record shows that Jesse S. Harker acquired the properties pursuant to Decision No. 1447, dated April 16, 1914 (Vol. 4, Opinions and Orders of the Railroad Commission of California, page 798), from William B. Ball in exchange for a ranch of 480 acres in Madera County.

It appears that Jesse S. Harker assigned these properties to Edna M. Harker, his wife, now deceased, and that Jesse S. Harker is the sole beneficiary and has been appointed administrator of the estate of Edna

M. Harker. He now proposes to sell and transfer the water system and business to Benjamin Franklin Nelson and Elizabeth Nelson in exchange for a twenty-acre ranch located at Alta Loma, San Bernardino County, together with twenty shares of stock of Iamosa Water Company, a mutual company, and a \$4,000 7 per cent three-year note dated February 18, 1922, secured by a first mortgage on Melvin Place Water Plant.

The testimony of Benjamin Franklin Nelson shows that he estimates the value of the San Bernardino County ranch properties as \$30,000, this being the price at which they were purchased by him.

The application and testimony herein indicate that J. S. Harker desires to withdraw from the public utility business and devote his time to other interests. It appears that the Nelsons plan to live on the properties and to give personal attention to the operation of the water business and that they are financially able to maintain and operate the plant as a public utility.

In Decision No. 9947, made on December 29, 1921, in Case No. 1610, the Commission, to some extent, reviewed service conditions of Melvin Place Water Plant and directed Jesse S. Harker and Edna M. Harker to file plans and to proceed with the construction of improvements and betterments necessary to insure an adequate water service at all times and to place a suitable meter upon each active service. The record shows that Jesse S. Harker and Edna M. Harker have installed all the improvements and betterments except a small portion of the meters. The purchasers of the properties are familiar with the Commission's Decision No. 9947 and have agreed to comply with the terms and conditions thereof.

ORDER.

Application having been made to the Railroad Commission for an order authorizing the transfer of the properties, the execution of a mortgage and the issue of a note, a public hearing having been held and the Railroad Commission being of the opinion that the request should be granted, subject to the conditions of this order:

It is hereby ordered, that Jesse S. Harker, individually and as administrator for the estate of Edna M. Harker, deceased, be and he is hereby authorized to transfer and convey, and Benjamin Franklin Nelson and Elizabeth Nelson be and they are hereby authorized to acquire, the public utility water properties and business referred to in the foregoing opinion and known as Melvin Place Water Plant.

It is hereby further ordered, that Benjamin Franklin Nelson and Elizabeth Nelson be and they are hereby authorized to execute a mortgage substantially in the same form as that filed in this proceeding on May 3, 1922, and to issue to Jesse S. Harker their three-year 7 per cent

note in the principal amount of \$4,000 in part payment for the properties they are herein authorized to acquire.

The authority herein granted is subject to the following conditions:

1. The authority herein granted to execute a mortgage is for the purpose of this proceeding only and is an approval only in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval as to such other legal requirements to which said mortgage may be subject.

2. The authority herein granted to transfer properties shall not be interpreted as a finding of value of said properties for the purpose of fixing rates or for any purpose other than this transfer.

3. Benjamin Franklin Nelson and Elizabeth Nelson shall comply with the terms and conditions of the Commission's Decision No. 9947 dated December 29, 1921, in Case No. 1610.

4. Within ten days after the transfer of the properties herein authorized shall have been effected, Benjamin Franklin Nelson and Elizabeth Nelson shall report that fact in writing to the Commission, together with the exact date upon which they took possession of such properties, and shall at the same time file with the Commission a copy of the instrument by which said properties were conveyed.

5. Within thirty days after the issue of the note herein authorized, Benjamin Franklin Nelson and Elizabeth Nelson shall file with the Commission a copy of said note.

6. The authority herein granted will not become effective until Benjamin Franklin Nelson and Elizabeth Nelson have paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is \$25.

7. The authority herein granted will apply only to such transfer of property, execution of a mortgage and issue of a note as may be made on or before November 30, 1922.

Dated at San Francisco, California, this eighth day of May, 1922.

DECISION No. 10429.

IN THE MATTER OF THE APPLICATION OF LOUIS SPOSITO TO SELL AND OSCAR SCHNEIDER, WALTER AND FRANK SCHNEIDER, DOING BUSINESS UNDER THE NAME AND STYLE OF SCHNEIDER BROTHERS, TO PURCHASE AN AUTOMOBILE FREIGHT LINE OPERATED BETWEEN SACRAMENTO AND AUBURN.

Application No. 7706.

Decided May 8, 1922.

TRANSFER—INADEQUATELY FINANCED.—When a proposed transaction is inadequately financed, a transfer which might result in financial disaster and eliminate present service will not be approved.

Howe and Hibbitt, by *R. B. Hibbitt*, for Applicants.

BY THE COMMISSION.

OPINION.

A public hearing was held by Examiner Westover at Sacramento on the above application to transfer an automotive freight line operated between Sacramento and Auburn.

It appears from the testimony that the purchasers propose to pay \$10,000 for equipment consisting of two White trucks, 3½ and 5 ton capacity, respectively, and two 3-ton trailers, with tools, office furniture and equipment, and \$6,000 for the operative rights.

The purchasers now operate two trucks and two trailers doing miscellaneous hauling in the delta territory southwest of Sacramento, but not between fixed terminals or over regular routes; and appear from the testimony to be capable operators who are able to serve the public as well as, or better than, the seller, as each of the brothers expects to give the business his personal attention. They also clearly understand that the Commission can not allow as a part of any rate base any cost for obtaining operative rights, which is in excess of the actual cost of originally obtaining the rights.

The transaction is to be financed by borrowing from one of the banks upon the total equipment of four trucks and four trailers, \$1,200 now against one of the buyer's trucks, and the \$10,000 to be paid for the equipment now being purchased, the \$11,200 to be secured by first chattel mortgage, and the \$6,000 for operative rights to be secured upon the same equipment by second chattel mortgage, payable at the rate of \$900 per month on principal. The total estimated value of the four trucks and four trailers is roughly \$20,000, and the encumbrance \$17,200. The required payments of principal and interest alone amount to more than \$1,000 a month, which the buyers would have to pay out of net earnings after providing operating expenses of all kinds, and depreciation. It was not made to appear by the testimony that the line would be able to earn enough to carry this burden. If it were, the question might naturally arise whether the prevailing rates be reasonable.

The transaction appears to us to be inadequately financed, and that there is too much chance of financial disaster, which might result in eliminating the present service of Mr. Sposito. For these reasons the application will be denied.

ORDER.

A public hearing having been held, the matter being submitted and now ready for decision;

It is hereby ordered, that the above entitled application for authority to transfer to Oscar Schneider et al. the automotive truck line operated between Sacramento and Auburn, be and it is hereby denied.

Dated at San Francisco, California, this eighth day of May, 1922.

DECISION No. 10435.

IN THE MATTER OF THE APPLICATION OF EAST BAY WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING (1) ISSUE OF SERIES "B" BONDS; (2) PLEDGE OF FIRST MORTGAGE FIVE AND ONE-HALF PER CENT THIRTY-YEAR GOLD BONDS; (3) ISSUE OF CLASS "A" SIX PER CENT CUMULATIVE PREFERRED STOCK.

Application No. 7823.

Decided May 10, 1922.

McKee, Tuschira and Wahrhaftig, by *A. G. Tuschira*, for Applicant.

BENEDICT, *Commissioner*.

OPINION.

East Bay Water Company asks permission to issue and sell \$3,000,000 face value of 6 per cent twenty-year unifying and refunding mortgage bonds due March 1, 1942; issue and sell \$504,000 par value of Class "A" 6 per cent preferred stock, and issue and deposit with the Mercantile Trust Company, trustee, under applicant's unifying and refunding mortgage \$2,432,100 face value of 5½ per cent first mortgage bonds due January 1, 1946. The purposes for which applicant asks permission to issue and sell or deposit the bonds and stock appear below.

As of May 1, 1922, applicant reports \$9,186,400 of stock outstanding. The outstanding stock consists of \$6,099,200 of Class "A" 6 per cent cumulative preferred, \$2,987,200 of Class "B" 6 per cent non-cumulative preferred and \$100,000 of common stock. As of the same date, applicant's debt secured by mortgages in the hands of the public is reported as \$13,538,200 and consists of \$9,782,700 of first mortgage 5½ per cent bonds due January 1, 1946, \$2,495,500 of 7½ per cent unifying and refunding mortgage bonds due September 1, 1936, \$1,250,000 of 6 per cent collateral trust gold notes due August 1, 1923, and a \$10,000 note secured by a deed of trust.

The Railroad Commission by Decision No. 5674, dated August 10, 1918, in Application No. 3980 (Vol. 15, Opinions and Orders of the Railroad Commission of California, page 1056), authorized East Bay Water Company to issue and sell \$1,250,000 of 6 per cent five-year collateral trust gold notes. The payment of these notes is secured by the deposit of \$1,634,000 of the company's first mortgage 5½ per cent bonds. The notes are now callable at 100½ and accrued interest. It is the intention of the company to redeem the notes through the issue of 6 per cent unifying and refunding mortgage bonds.

Applicant reports that from November 1, 1918, to December 31, 1921, it expended for construction purposes the sum of \$4,085,120.37. It further reports that during the same interim, it received from the sale of land \$250,252.88 and that its reserve for accrued depreciation was

\$193,000, making a total of \$443,252.88. Deducting the \$443,252.88 from the \$4,085,120.37 leaves a balance of \$3,641,867.49.

Applicant estimates its construction expenditures to December 31, 1922, at \$1,016,000, segregated as follows:

Account C- 2 Franchises and water rights	\$5,000 00
Account C- 5 Land	13,500 00
Account C- 6 Buildings, structures and grounds	20,000 00
Account C-14 Pumping equipment	22,500 00
Account C-17 Transmission mains	30,500 00
Account C-18 Distribution mains	646,500 00
Account C-19 Distribution reservoirs	5,000 00
Account C-20 Hydrants	10,000 00
Account C-21 Services	43,000 00
Account C-22 Meters	65,000 00
Account C-24 General equipment	15,000 00
San Pablo Project	85,000 00
Engineering, superintendence, administrative and incidental	55,000 00
	<hr/>
	\$1,016,000 00

Adding the \$1,016,000 to the \$3,641,867.49 makes a total of \$4,657,867.49. It is the intention of the company to finance 75 per cent of the actual and estimated construction expenditures through the sale of bonds and 25 per cent through the sale of Class "A" 6 per cent cumulative preferred stock. This would call for the issue of \$3,493,400.62 of bonds and \$1,164,466.87 of stock. However, the Commission has heretofore authorized the company to issue \$483,400 of bonds and \$760,125 of stock to finance construction expenditures subsequent to November 1, 1918. In arriving at the \$483,400, it is assumed that the \$1,250,000 of 6 per cent notes are redeemed. Deducting the \$483,400 of bonds from the \$3,493,400.62, leaves a balance of \$3,010,000.62; while the \$760,125 of stock deducted from the \$1,164,466.87 leaves a balance of \$404,341.87. To finance these expenditures, applicant asks permission to issue and sell, at 97½ per cent of their face value and accrued interest, \$3,000,000 of 6 per cent twenty-year unifying and refunding bonds due March 1, 1942, and issue and sell at not less than \$80 per share and accrued dividends 5040 shares (\$504,000 par value) of Class "A" 6 per cent cumulative preferred stock. The bonds are callable on any interest payment date at par, accrued interest and a premium of 10 per cent.

While applicant asks permission to use the proceeds from the sale of the bonds and stock to pay the 6 per cent notes, to reimburse its treasury and provide funds to pay for future construction, E. O. Edgerton, president of East Bay Water Company, testified that the proceeds will be used to pay the \$1,250,000 of 6 per cent notes, to pay the \$730,415.09 short term notes and the construction expenditures referred to in the application, and that any proceeds remaining would be used for working capital. The use of such proceeds for working

capital in no way obligates the Commission to recognize the amount thereof as the proper allowance for working capital in a rate proceeding.

Applicant asks permission to issue and deposit with Mercantile Trust Company, trustee, under its unifying and refunding mortgage \$2,432,100 of 5½ per cent first mortgage bonds due January 1, 1946. This amount consists of the \$1,634,000 of bonds now deposited to secure the \$1,250,000 of 6 per cent gold notes and \$798,100 of bonds which have never been issued by the company. If the \$2,432,100 of bonds are deposited, all of the company's first mortgage bonds are either in the hands of the public, or on deposit with the trustee under the unifying and refunding mortgage, or have been redeemed and cancelled.

I herewith submit the following form of order:

ORDER.

East Bay Water Company having applied to the Railroad Commission for permission to issue and sell \$3,000,000 of 6 per cent unifying and refunding mortgage bonds and \$504,000 of Class "A" 6 per cent cumulative preferred stock, and issue and deposit \$2,432,100 of 5½ per cent first and refunding mortgage bonds, a public hearing having been held, and the Commission being of the opinion that the money, property or labor to be procured or paid for through such issue is reasonably required by applicant for the purposes herein mentioned, and that the expenditures herein authorized, other than the allowance for working capital, are not in whole or in part reasonably chargeable to operating expenses or to income and that this application should be granted subject to the conditions of this order;

It is hereby ordered, that East Bay Water Company be and it is hereby authorized to issue and sell, for cash, at not less than 97½ per cent of their face value and accrued interest, \$3,000,000 of 6 per cent twenty-year unifying and refunding mortgage bonds due March 1, 1942; to issue and sell, for cash, at not less than 80 per cent of its par value and accrued dividends \$504,000 of Class "A" 6 per cent cumulative preferred stock; and issue and deposit with the Mercantile Trust Company, trustee, under the company's unifying and refunding mortgage \$2,432,100 of 5½ per cent of first mortgage bonds due January 1, 1946.

The authority herein granted is subject to the following conditions and not otherwise:

1. The bonds and stock herein authorized shall be issued for the purpose of financing the acquisition and construction of the properties referred to in this application and the reimbursement of applicant's

treasury on account of the acquisition and construction of said properties and the proceeds obtained from the sale thereof used for the following purposes:

- (a) Proceeds in the amount of not exceeding \$1,256,250 may be used to redeem the 6 per cent collateral trust gold notes referred to in this application;
- (b) Proceeds in the amount of not exceeding \$730,415.09 may be used to pay the short term notes referred to in this application;
- (c) Proceeds in the amount of not exceeding \$1,016,000 may be used to pay all or such part of the actual or estimated 1922 construction expenditures referred to in this application as are properly chargeable to fixed capital under the uniform classification of accounts for water corporations prescribed by this Commission;
- (d) The remainder of the proceeds, exclusive of any of the amounts not expended for the purposes mentioned in subdivisions, (a), (b) and (c), may be used for working capital and the payment of accrued interest on bonds and accrued dividends on stock herein authorized to be sold;
- (e) Any proceeds not expended for the purposes indicated in subdivisions (a), (b) and (c) of the foregoing condition may be used only for such purposes as the Commission may hereafter authorize by supplemental order or orders.

2. Applicant shall file with the Railroad Commission, until otherwise directed, a complete copy of its monthly reports prepared for the use of its officers and employees, such reports to be filed as soon as available for distribution to such officers and employees. The first report to be filed shall be for the month of May, 1922.

3. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act.

4. East Bay Water Company shall keep such record of the issue and sale of the bonds and stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted to issue bonds and stock will apply only to such bonds and stock as may be issued, sold and delivered on or before December 31, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this tenth day of May, 1922.

DECISION No. 10436.

IN THE MATTER OF THE APPLICATION OF THE SACRAMENTO
NORTHERN RAILROAD, A CORPORATION, FOR AN ORDER
AUTHORIZING AN INCREASE IN CERTAIN SWITCHING RATES.

Application No. 6812.

Decided May 10, 1922.

SWITCHING RATE—TERMINAL CHARGE—COSTS NOT CONTROLLING.—It is held that approximated costs can not be made the controlling factor in arriving at a switching rate for a terminal charge.

TERMINAL SWITCHING, TRANSFER TRACK—INDUSTRIAL TRACK.—The Commission points out that terminal switching from transfer track to transfer track is reciprocal in a liberal sense, because the intended result is the upbuilding of the entire community to the best advantage of all participating railroads. The practice among carriers within the State of California to make no greater charge within switching limits for a haul from transfer tracks to transfer tracks than from transfer tracks to industry tracks is declared to be practically universal.

BY THE COMMISSION.

OPINION ON PETITION FOR REHEARING.

The Sacramento Northern Railroad Company petitioned for a rehearing in Application No. 6812, decided September 23, 1921, Decision No. 9545, involving an increase in the switching charges from \$3 per car when incidental to a foreign line haul, and \$4 per car for local movement to 37½ cents per ton, minimum charge \$6.50 per car, for the switching of loaded cars between the transfer track of the San Francisco-Sacramento Railroad at West Side and the transfer track of the Southern Pacific Company, Western Pacific Railroad Company or Central California Traction Company at Sacramento.

The application for a reopening of the proceeding was granted and a hearing was held before Commissioner Benedict at San Francisco on April 10, 1922, and the matter is now ready for determination.

In its petition for rehearing applicant relies mainly upon two things: First, that proper consideration was not given to the claimed cost of moving the cars; and, second, that the decision was made upon the theory that applicant received compensation by way of reciprocal allowances from the San Francisco-Sacramento Railroad. By stipulation, all of the record made in a similar proceeding, Docket 13224, held before the Interstate Commerce Commission in San Francisco February 1, 1922, was made a part of the instant proceeding.

The evidence and the exhibits submitted in support of this application on rehearing, also the record made in Interstate Commerce Commission Docket 13224, is not materially different from that considered in the original opinion and order, Decision No. 9545. Two new exhibits were filed, one by applicant dealing with the segregation of switching costs in the Sacramento yards, the other by protestant, San Francisco-Sacramento Railroad, setting forth that the charge is \$3 by other railroad companies within the State of California for the rendering of a similar service between transfer tracks at the different terminals. The effect of the exhibit showing costs was to reduce the amount as claimed by the applicant in its exhibits at the original hearing from \$4.25 to \$4.17 (without fixed charges and taxes), the reduction being accomplished by taking into consideration the changes in wages paid to switching crews.

Considerable stress has been laid upon the cost of performing the switching service in connection with shipments coming from the San Francisco-Sacramento Railroad. The tables presented by the applicant show a variation of the operating cost per loaded car (without fixed charges and taxes) running from \$3.74 to \$5.13, dependent upon the method employed in reaching the conclusion. We do not believe that the approximated costs claimed by applicant can be made the controlling factor in arriving at a switching rate for a terminal charge. It is a matter of common knowledge that operating expenses are decreasing and this being so it is obvious that the data prepared in connection with the costs of operation can not be accurate and can not be a dependable guide for the Commission to follow. In view of this we must decline to accept the results upon which the figures are based. It was shown by the testimony of several witnesses that the standard charge of \$3 between transfer tracks at terminals within the State of California was established without consideration having been given to the actual cost of the service and for the further reason that the carriers were not in a position to justify a higher charge from a transfer track to a transfer track than they assessed for a movement from a transfer track to an industry track and this practice has been in effect in the State of California for more than fifteen years.

Should this application be granted not only would the San Francisco-Sacramento Railroad suffer through loss of tonnage, but the city of Sacramento would be at a severe disadvantage. So far as its markets on the San Francisco-Sacramento are concerned, there would be a discrimination against Sacramento and against the territory served by the San Francisco-Sacramento Railroad and would result further in the granting of undue preference to industries located on the tracks of the Sacramento Northern within the Sacramento switching limits, as against the industries located on the tracks of either the Western

Pacific, Southern Pacific or the Central California Traction Company receiving freight from shippers located on the rails of the San Francisco-Sacramento Railroad and would have a tendency to divert tonnage in every situation where the transfer switching charges of the Sacramento Northern are involved and where the competing carriers could make direct delivery of the commodities.

Item 490, which it is proposed to change by the instant application, now provides a charge of \$3 for freight, carloads, when moving between transfer tracks of the San Francisco-Sacramento Railroad at West Side and industry tracks of the Sacramento Northern within the switching limits at Sacramento, which charge is to remain in effect. The item also provides, between transfer tracks at West Side and transfer tracks of the Southern Pacific Company, Western Pacific and Central California Traction Company at Sacramento, a charge of \$3 to be applied only when incidental to a foreign line haul, and a charge of \$4 when the movement is local between West Side and the transfer tracks for delivery at Sacramento. Both charges, \$3 and \$4, are sought to be eliminated from the tariff and in lieu of the same to be published a charge of 37½ cents per ton, with a minimum of \$6.50 per car.

It would appear to the Commission, as stated in the original decision, that to cancel the present charge of \$3 for line haul and \$4 for local traffic to or from transfer tracks of the connecting carriers would create a distinct discrimination, inasmuch as a carload moving from West Side to the industry tracks at Sacramento located on the rails of the Sacramento Northern would have a charge of \$3 per car, while a similar movement to the transfer tracks of the Southern Pacific, Western Pacific or Central California Traction Company for delivery at Sacramento would be required to pay a charge of 37½ cents per ton, with a minimum of \$6.50 per car.

In some instances, as appears from the testimony and the exhibits, the haulage service rendered for a charge of \$3 to the industry tracks will be greatly in excess of the service to the transfer tracks of the connecting lines, where it is proposed to put in the higher rate of 37½ cents per ton, minimum \$6.50.

While West Side is not within the authorized switching limits of Sacramento, as outlined in Item 590 of Tariff 5-B, it has, nevertheless, in the past been treated as part of the Sacramento limits by the use of Item 490 referred to above.

The proposed adjustment would appear to be in violation of section 19 of the Public Utilities Act:

"No public utility shall, as to rates, charges, service facilities or in any other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, charges,

service, facilities or in any other respect, either as between localities or as between classes of service. The Commission shall have the power to determine any question of fact arising under this section."

Under the application a car could move from the transfer track at West Side to an industry track within the switching limits of the Sacramento Northern at Sacramento in the American River yards, a distance of 7.2 miles, for \$3, regardless of the weight of the shipment. A similar car moving from the same transfer track, in part over the same rails, for delivery to the Southern Pacific Interchange No. 1, Front and X streets, a distance of 1.83 miles, would be assessed a charge of $37\frac{1}{2}$ cents per ton, with minimum of \$6.50 and, in addition, a charge of \$3 by the Southern Pacific Company for movement from the transfer track of the Sacramento Northern to the industry track. If a car going to the industry tracks of the Southern Pacific carried 50 tons the charge would be \$18.75 for the Sacramento Northern for movement West Side to Southern Pacific transfer, and \$3 for the Southern Pacific, or a total charge of \$21.75 as against a charge of only \$3 if delivery were made on an industry track of the Sacramento Northern, and in some districts the industry tracks of the two carriers are but a few blocks apart.

In the *Railroad Commission of Nevada vs. Southern Pacific Company*, I. C. C. 21, 329-366, the following language is employed:

"A community is entitled to something more than a reasonable rate; it is entitled to a nondiscriminatory rate. * * *. It must view its rates as a whole and see to it that they effect no advantage or preference to one community over another which does not arise necessarily out of the transportation advantages which the one has over the other."

Applicant relies upon the allegation that there is no direct reciprocal switching arrangement whereby it receives a similar service or benefit or any allowance out of the line-haul revenue from the San Francisco-Sacramento Railroad and, therefore, contends this Commission should ignore any reference to reciprocity between the two companies. The testimony is conflicting, but admitting there is no actual compensation to the Sacramento Northern, consideration must be given the adjustment upon broad and liberal lines, in order to prevent discrimination as between industries at Sacramento and between the city of Sacramento and other industrial communities.

This applicant, by its proposed adjustment, would establish an act of reciprocity for the benefit of preferred shippers by making a rate of \$3 per car between West Side and Sacramento to industries located on its own rails, but for an equal quantity of service for industries located on the rails of other carriers at Sacramento would make a rate of $37\frac{1}{2}$ cents per ton, or \$18.75 for a fifty-ton car, for a haul over the

same track. Clearly, the rate increases proposed would create a violent discrimination within the Sacramento switching limits.

As heretofore stated, railroads within California, including this applicant, established the \$3 switching charge between transfer tracks at terminals without regard to the element of service costs. This is clearly proven by a check of the exhibits and tariffs; the standard uniform transfer track charge of \$3 is in effect at Bay Point, Fresno, Oakland, San Francisco, Richmond, Stockton, etc., where lines performing the service receive no similar benefit at other terminals. Terminal switching from transfer track to transfer track is reciprocal in a liberal sense, because the intended result is the upbuilding of the entire community to the best advantage of all participating railroads. The practice among carriers within the State of California to make no greater charge within switching limits for a haul from transfer tracks to transfer tracks than from transfer tracks to industry tracks is practically universal.

The Commission has reviewed all of the testimony presented in an effort to discover additional evidence which might have been omitted in the original proceeding, but fails to find any relevant or material facts introduced either by the applicant or the protestant at the three different hearings, that is, two before this Commission and one before the Interstate Commerce Commission, which had not been developed at the original hearing.

The Commission is of the opinion that the conclusion as reached in Decision No. 9545 should not be modified and that this application should be dismissed.

ORDER.

It appearing, that on September 23, 1921, the Commission entered its opinion and order in the above application, and on April 10, 1922, reopened this proceeding for further hearing; that such further hearing has been had, and that the Commission, on the date hereof, has made and filed its opinion on rehearing containing its findings of facts and conclusions thereon, which is hereby referred to and made a part hereof;

It is hereby ordered, that this proceeding be and it is hereby dismissed.

Dated at San Francisco, California, this tenth day of May, 1922.

DECISION No. 10441.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ISSUE, SELL AND DELIVER TWENTY-FIVE MILLION DOLLARS PAR VALUE OF ITS BONDS.

Application No. 7792.

Decided May 12, 1922.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

The Railroad Commission having on April 29, 1922, by Decision No. 10381, authorized The Pacific Telephone and Telegraph Company to issue and sell \$25,000,000 of refunding mortgage thirty-year 5 per cent bonds due May 1, 1952, subject, among others, to the condition that—

"The Pacific Telephone and Telegraph Company will deposit with a bank or banks, or with a trust company or trust companies, all of the proceeds realized from the sale of the bonds and keep such proceeds deposited until such time as the Commission by supplemental order or orders defines the purposes for which the proceeds may be used and authorizes applicant to execute a deed of trust securing the payment of the bonds."

And The Pacific Telephone and Telegraph Company having requested permission to execute a deed of trust substantially in the same form as the deed of trust filed on May 9, 1922, and the Commission having considered applicant's request and being of the opinion that Decision No. 10381, dated April 29, 1922, should be modified as herein provided and that the purposes for which applicant is authorized to expend the proceeds from the sale of the bonds are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that The Pacific Telephone and Telegraph Company be and it is hereby authorized to execute a deed of trust substantially in the same form as the deed of trust filed with this Commission on May 9, 1922, provided:

That the authority herein granted to execute a deed of trust is for the purpose of this proceeding only, and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said deed of trust as to such other legal requirements to which such deed of trust may be subject.

It is hereby further ordered, that Condition "1" of the order in Decision No. 10381, dated April 29, 1922, be and it is hereby modified so as to permit The Pacific Telephone and Telegraph Company to use the proceeds obtained from the sale of the \$25,000,000 of bonds, the issue of which is authorized in said decision, to reimburse its treasury and refund its outstanding obligations to the extent that its treasury is not reimbursed and its outstanding obligations are not refunded

through the sale of preferred stock issued under the authority granted in Decision No. 10334, dated April 20, 1922, in Application No. 7657, and to finance in part the cost of the additions and extensions to its plant and system set forth in Exhibit "AA" filed in this proceeding, provided:

That all money used to reimburse the treasury be expended for the acquisition or construction of properties; and provided further:

That the proceeds realized from the sale of the \$25,000,000 of bonds be used to finance the acquisition or construction of only such properties, the cost of which is properly chargeable to capital accounts under the uniform system of accounts for telephone companies prescribed by the Interstate Commerce Commission and adopted by this Commission.

It is hereby further ordered, that the Commission's General Order No. 24 be and it is hereby modified so as to permit The Pacific Telephone and Telegraph Company to deposit the proceeds from the sale of the bonds until such time as they are needed for construction purposes with a state or national bank or banks, or with the American Telephone and Telegraph Company.

It is hereby further ordered, that the order in Decision No. 10381, dated April 29, 1922, as amended, shall remain in full force and effect, except as modified by this second supplemental order.

Dated at San Francisco, California, this twelfth day of May, 1922.

DECISION NO. 10443.

IN THE MATTER OF THE APPLICATION OF PACIFIC AUTO STAGES, A CORPORATION, TO ISSUE STOCK; AND THE APPLICATION OF FLOYD W. HANCHETT AND NICHOLAS LOCICERO, OPERATING AND DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF PACIFIC AUTO STAGE COMPANY, AND PACIFIC AUTO STAGE COMPANY, TO TRANSFER PROPERTY.

Application No. 7718.

Decided May 12, 1922.

Derlin and Brookman, by Frank R. Derlin, for Applicants.

BY THE COMMISSION.

OPINION.

Floyd W. Hanchett and Nicholas Locicero and Pacific Auto Stages, a corporation, herein apply for an order of the Railroad Commission authorizing the transfer of the operative rights heretofore individually held by applicants, Hanchett and Locicero, to Pacific Auto Stages, a corporation. Applicant, Pacific Auto Stages, a corporation, herein applies for an order authorizing the issuance of one thousand shares of its capital stock of the aggregate par value of \$100,000, said stock to be issued in exchange for the rights, franchises, property and interests

of applicants, Hanchett and Locicero, in stage lines heretofore operated by such applicants between San Francisco and San Jose.

A public hearing on this application was conducted by Examiner Handford at San Francisco on April 21, 1922, the matter was duly submitted and is now ready for decision.

The operative rights for the conduct of the stage lines operated by applicants, Hanchett and Locicero, are those existing by reason of operation in good faith prior to May 1, 1917, which was the date recognized by the legislature in chapter 213, Statutes of 1917, as that upon which operators in good faith were not required to secure a certificate of public convenience and necessity from the Railroad Commission nor permits from the governing bodies of the political subdivisions through which a route passed. While possessing individual operative rights, applicants, Hanchett and Locicero, have arranged their schedules and divided the business over the route between San Francisco and San Jose so that each have protected certain schedules, rendering, in fact, practically a uniform operation as a result of the combined services under their individual operative rights. It is now proposed to transfer these rights to a corporation in the belief that the business can be thereby conducted in a more economical and efficient manner and the proposed transfer and future operation by the applicant corporation appears to be in the interest of the public and one that should be authorized.

We will now consider the request of Pacific Auto Stages to issue stock.

Testimony herein shows that each of the applicants, F. W. Hanchett and Nicholas Locicero, is the owner of separate operative rights and properties. They conduct their business jointly under the firm name and style of Pacific Auto Stage Company. It appears that each operator collects the revenues and pays the expenses arising from the operation of his own cars but that certain expenses, such as ticket agents' salaries, rentals, etc., are divided equally.

The articles of incorporation of Pacific Auto Stages show that it was organized on or about March 7, 1922, with an authorized capital stock of \$150,000 divided into 1500 shares of the par value of \$100 each. The company now asks permission to issue \$100,000 of stock. It intends to deliver \$94,000 of stock to F. W. Hanchett and Nicholas Locicero in payment for their automobile properties and business, subject to existing indebtedness. It proposes to deliver \$6,000 of stock to F. W. Hanchett, Nicholas Locicero and Carl K. Sorensen in payment for properties owned jointly by them at the San Jose terminal and consisting of a store and business established for the convenience of patrons of Pacific Auto Stage Company. This business, as shown by testimony herein, represents a cash investment of \$6,000.

The properties which the corporation intends to acquire from F. W. Hanchett, Nicholas Locicero and Carl K. Sorensen are shown, in Exhibit "B" attached to the petition, to consist of the following:

Twenty-five automobiles valued at	\$81,150 00
Supplies, machinery, tools, etc.	10,712 85
Prepaid taxes, licenses, etc.	3,150 00
Store and business at San Jose	6,000 00
Total	\$101,012 85

Applicants have not attempted to place any cash value on operating rights, going concern or leases.

F. W. Hanchett testified that the values of the automobiles are estimates of the present cost of replacing the properties. His testimony, and that of Nicholas Locicero, shows that both parties are satisfied with the values given to their respective automobiles. It appears that \$60,000 of stock will be delivered to F. W. Hanchett, \$38,000 to Nicholas Locicero and \$2,000 to Carl K. Sorensen.

The application shows that there is indebtedness aggregating \$2,025 outstanding against the automobiles owned by Nicholas Locicero. The payment of this indebtedness, which appears to be the only indebtedness against the equipment, will be assumed by Pacific Auto Stages.

F. W. Hanchett and Nicholas Locicero have filed a statement showing the revenues and expenses of their automobile business for the year ending December 31, 1921, as follows:

Gross revenues:	
From passenger business	\$150,270 00
From other sources	480 00
Total revenues	\$150,750 00
Disbursements:	
Wages	\$46,159 00
Gasoline and oil	20,117 00
Tires and tubes	31,438 00
Parts and accessories	10,663 00
Rents	6,850 00
Insurance, taxes, etc.	9,030 00
Depreciation	12,824 00
Office expenses, etc.	2,425 00
Total disbursements	140,106 00
Net profit for year	\$10,644 00

ORDER.

Application having been made to the Railroad Commission for permission to transfer properties and operative rights and to issue stock, a public hearing having been held, and the Commission being duly advised and of the opinion that the transfers herein requested should be granted, and that the money, property or labor to be procured or paid for through the issue of stock is reasonably required by Pacific Auto Stages;

It is hereby ordered, that F. W. Hanchett and Nicholas Locicero be and they are hereby authorized to transfer, and Pacific Auto Stages be and it is hereby authorized to acquire, the properties described in Exhibit "B" attached to the application herein.

It is hereby further ordered, that Pacific Auto Stages be and it is hereby authorized to assume the payment of indebtedness of \$2,025 referred to in the preceding opinion and to issue at par \$100,000 of stock in payment for the properties it is herein authorized to acquire.

The authority herein granted is subject to the following conditions:

1. The price at which the properties are herein authorized to be transferred shall not be binding upon this Commission or any court or public body as a measure of value for rate fixing or for any purpose other than the transfer herein authorized.

2. Pacific Auto Stages shall keep such record of the issue and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted to transfer properties and operative rights and to issue stock will apply only to such transfer and issue as may be made on or before October 31, 1922.

4. Applicants, Hanchett and Locicero, will be required to immediately cancel all tariffs and time schedules as now filed with the Railroad Commission and applicant, Pacific Auto Stages, a corporation, will be required to immediately file tariffs and time schedules in accordance with the General Order No. 51 and other regulations of the Railroad Commission or to adopt as its own the tariffs and schedules as heretofore filed with the Railroad Commission by applicants, Hanchett and Locicero, all rates to be in either instance in accordance with those as heretofore filed by said applicants, Hanchett and Locicero.

5. The rights and privileges, transfer of which are hereby authorized, may not again be transferred, assigned, sold, leased, hypothecated or service thereunder discontinued unless such transfer, assignment, sale, lease, hypothecation or discontinuance of service has first received the written approval of the Railroad Commission.

6. No vehicle may be operated by applicant, Pacific Auto Stages, a corporation, under the authority conferred by this transfer unless such vehicle is owned by said applicant or is leased by such applicant under terms and conditions satisfactory to the Railroad Commission.

Dated at San Francisco, California, this twelfth day of May, 1922.

DECISION No. 10453.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ISSUE AND SELL FIFTY THOUSAND SHARES OF ITS COMMON CAPITAL STOCK OF THE PAR VALUE OF ONE HUNDRED DOLLARS EACH.

Application No. 7840.
Decided May 13, 1922.

A. N. Kemp, for Applicant.

BENEDICT, *Commissioner*.

OPINION.

Southern California Edison Company asks permission to issue and sell at not less than \$101 per share net 50,000 shares (\$5,000,000 par value) of its common stock.

Applicant has an authorized stock issue of \$100,000,000 divided into \$83,500,000 of common, \$4,000,000 of first preferred and \$12,500,000 of second preferred stock. All of the first preferred and \$12,029,900 of the second preferred stock is outstanding. Of the common stock \$33,461,072 is outstanding and in the hands of the public and \$8,258,200 has been subscribed for but not yet issued, according to applicant's report. Applicant's total stock issued and in the hands of the public and subscribed for on May 1, 1922, is reported at \$57,749,172. Applicant's bonded debt outstanding on December 31, 1921, is reported at \$72,948,800.

A. N. Kemp, one of applicant's vice presidents, testified that the company's construction program for 1922 calls for an expenditure of about \$20,000,000 and that the actual expenditures may exceed this estimate. The record shows that applicant will expend the proceeds obtained from the sale of the stock only for such purposes as the Commission may authorize in a supplemental order or orders.

I herewith submit the following form of order:

ORDER.

Southern California Edison Company having applied to the Railroad Commission for permission to issue and sell 50,000 shares (\$5,000,000 par value) of common stock, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that this application should be granted subject to the conditions of this order;

It is hereby ordered, that Southern California Edison Company be and it is hereby authorized to issue and sell, for cash, at not less than \$101 per share net 50,000 shares (\$5,000,000 par value) of its common capital stock.

The authority herein granted is subject to further conditions as follows:

1. All of the net proceeds obtained from the sale of the stock herein authorized shall be placed and held in applicant's treasury, or in a special fund, and shall be disbursed only for such purposes as the Railroad Commission may authorize in a supplemental order or orders. The proceeds may be consolidated with the proceeds obtained from the sale of stock, the issue of which has heretofore been authorized by the Railroad Commission.

2. Southern California Edison Company shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will apply only to such stock as may be issued, sold and delivered on or before October 15, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirteenth day of May, 1922.

DECISION No. 10454.

IN THE MATTER OF THE APPLICATION OF W. M. HUFFMAN FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTO TRUCK AND EXPRESS SERVICE AS A TRANSPORTATION COMPANY BETWEEN TURLOCK AND OAKLAND AND BERKELEY AND INTERMEDIATE POINTS.

Application No. 6476.

Decided May 13, 1922.

CERTIFICATE—REVOCATION OF—ILLEGAL OPERATION.—Failure to file schedules and tariffs as provided in a certificate makes operation without authority and illegal.

CERTIFICATE—PROVISIONS OF STATUTE—PRESUMPTION OF KNOWLEDGE.—The statute provides that those wishing to engage in the business of operating stage or truck lines must first procure from the Railroad Commission certificates of public convenience and necessity. There is a legal presumption that everyone knows the law and it must be assumed that applicants or operators are actually informed as to the provisions of the statute.

Sanborn and Rochl and De Lancey C. Smith, for Respondent.

Edvard Stern, for American Railway Express Company.

J. N. Bradshaw, for Southern Pacific Company.

E. T. Lucey, for Atchison, Topeka and Santa Fe Railway Company.

BY THE COMMISSION.

OPINION ON ORDER TO SHOW CAUSE.

A public hearing was held by Examiner Westover at San Francisco upon an order to show cause issued herein by the Commission, directing that applicant, W. M. Huffman, appear before the Commission and show cause, if any he has, why the certificate heretofore granted him under Decision No. 8892 herein should not be revoked.

The recited grounds of the order were that Decision No. 8892 of April 20, 1921, authorized Mr. Huffman to transport butter and cream only, between Oakland, Berkeley and Turlock, and expressly prohibited transporting property between any points other than the three cities named and prohibited transportation of any classes of freight or commodities other than butter and cream; that the Commission having been advised of the fact that Mr. Huffman was, on and prior to February 16, 1922, transporting other classes of commodities between Oakland and Manteca, Ripon, Salida, Modesto, Ceres, Keyes and Turlock, and was so advertising; on February 18, 1922, Mr. Huffman's attention was called to the fact that such operation was in violation of the provisions of the certificate granted him under Decision No. 8892, to which he replied on March 2, 1922, through his agent, that such illegal transportation would be immediately discontinued; but instead Mr. Huffman testified on March 21 and 22, 1922, in support of his Application No. 7626, that such illegal service had not been discontinued, but was being continued in violation of the provisions of said Decision No. 8892.

At the hearing upon the above order, Mr. Huffman, by counsel, admitted all of the facts alleged in the order, and stipulated that all files, records and proceedings in his Applications No. 6476 and No. 7626 might be considered in evidence, together with partial transcript of the evidence containing his testimony in Application No. 7626, and thereupon submitted the matter.

The following salient facts are shown by a review of the proceedings: Application No. 6476 was limited to the transportation of eggs, egg cases, butter fats, chickens and chicken crates. During the hearing, it was amended by leave to include cream, and to add Berkeley as a point to be served because of the location of a creamery there, the amendment being offered in the presence of the applicant by his counsel; yet he testified in Application No. 7626 that he did not know that the authority granted was limited, as he had never seen the Commission's decision, but relied upon his attorney's statement that "everything was O.K." It also appears from his testimony therein that he had in fact begun operation in the summer of 1920 without any authority and that he served, among other points, Dublin, Pleasanton and Livermore, points not even included in his Application No. 6476, and concerning which

no testimony was offered; and that he did not limit his operation at any time as provided by the Commission's order, although he learned by the Commission's letter of November 9, 1921, that his authority was limited to Oakland, Berkeley and Turlock, and that tariffs and schedules had not been filed. His attention was further called to the illegality of his operation in letters from the Commission, dated December 23, 1921, and February 18, 1922, but no reply was received until the letter of March 2, 1922, from his agent, saying that Mr. Huffman had informed the agent that no service was being rendered to points other than those specified in the order and that upon learning that his authority was so limited he had revised his service to conform to the Commission's order. His testimony and that of his witnesses at the hearing upon Application No. 7626 to expand his operative rights, shows that the service was not limited in any particular after it was originally illegally established in the summer of 1920, he explaining that to cease his illegal operations when notified to do so would mean that he would have to go out of business and that he had \$12,000 invested in it.

As the order provided that the authority should not become effective until and unless schedules and tariffs were filed within twenty days, it follows that Mr. Huffman was in fact operating at all times without authority, even as to the few commodities authorized by the first order.

The statute provides that those wishing to engage in the business of operating stage or truck lines must *first* procure from the Railroad Commission certificates of public convenience and necessity. As it was adopted in 1917, amended in 1919, and given wide publicity through the press and by special efforts on the part of the Commission, it must be assumed that applicants or operators are actually informed as to the provisions of the statute; especially in an instance such as this in which the applicant was represented by different counsel at the hearings upon the two applications. In addition, there is the legal presumption that everyone knows the law.

We proceed herein under section 5 of chapter 213, Statutes of 1917, as amended by chapter 280, Statutes of 1919, to revoke the authority originally granted, although there may be justification to punish for contempt under the powers expressly granted to the Commission, or to cause the imposition of a fine or imprisonment, or both, under section 8 of the statutes above referred to.

ORDER.

A public hearing having been held in the above entitled proceeding, the matter being submitted, and now ready for decision;

It is hereby ordered, that the authority of W. M. Huffman contained in Decision No. 8892 of April 20, 1921, authorizing the operation of a

truck line between Turlock, Oakland and Berkeley for the transportation of butter and cream, be and it is hereby revoked.

It is hereby further ordered, that all operation of said line by said W. M. Huffman shall cease within five days from the date hereof.

Dated at San Francisco, California, this thirteenth day of May, 1922.

DECISION No. 10455.

IN THE MATTER OF THE APPLICATION OF A. J. RICHARDSON, DOING BUSINESS UNDER THE FICTITIOUS NAME OF RICHARDSON TRANSPORTATION COMPANY, TO SELL CERTAIN OPERATING RIGHTS AND EQUIPMENT TO THE VERDUGO HILLS TRANSPORTATION COMPANY, AND OF THE LATTER COMPANY TO PURCHASE AND ISSUE STOCK IN PAYMENT THEREFOR.

Application No. 7676.

Decided May 13, 1922.

N. C. Folsom, for Applicant.

BY THE COMMISSION.

OPINION.

A public hearing was held by Examiner Westover at Los Angeles upon the above application for authority to transfer operative rights and equipment used in the business of transporting, as a common carrier, passengers and express packages between Los Angeles and Sunland and intermediate points, and also in operating a separate line locally between Sunland and San Fernando, authority therefor having heretofore been granted in Decision No. 7255 of March 12, 1920, and Decision No. 10130 of February 27, 1922.

A. J. Richardson is the sole owner of the property and has caused to be incorporated Verdugo Hills Transportation Company, with an authorized capital stock of \$75,000, divided into 7500 shares of the par value of \$10 each. The new corporation joins in the application. By the present application, authority is sought to transfer the operative rights and equipment to the new corporation and authorize it to issue \$31,000 par value of its stock in payment therefor, all to be issued to Mr. Richardson except one share each to T. E. Richardson and Don Campbell to qualify them as two of the three directors. It appears from the testimony that the equipment consists of seven Studebaker trucks and one Republic truck, all equipped with passenger stage bodies, and acquired at various dates between January 1, 1920, and December, 1921, at an original cost of \$28,750, and that its present value, depreciated at the rate of 2 per cent per month, is \$23,553.08. Furniture and fixtures, garage equipment and tools, repair shop, supplies on hand, and certificates and permits appear to have cost \$7,250.29. These items, with prepaid licenses of \$315, and an item of \$532.69 cash

on hand at a certain date prior to the filing of the application, total \$32,301.06, against which applicant desires to issue \$31,000 par value of stock.

All of the property in question appears to be free of encumbrance, except for a balance of \$800 or \$900 on contract for the Republic truck with twenty-passenger body, purchased in August, 1921, and costing, with body, \$6,000. The only other indebtedness is shown to be for current bills.

The purpose of incorporating is said to be to aid in financing additional equipment needed to meet the growing business, and that it was found that this can be done at much better terms where the business is incorporated. No change in personnel is contemplated, and it appears that the public will receive service equal or superior to that now rendered.

There appears to be no objection to authorizing the transfer; nor to issuing the 3100 shares of stock, provided the present indebtedness and encumbrance is discharged before the full amount of stock is issued, or stock at par sufficient to offset the indebtedness is withheld.

ORDER.

A public hearing having been held upon the above entitled application, the matter being submitted and ready for decision;

It is hereby ordered, that A. J. Richardson be and he is hereby authorized and empowered to transfer to Verdugo Hills Transportation Company, a corporation, the eight stages, furniture and fixtures, garage equipment and tools, repair shop, supplies on hand, certificates and permits, prepaid licenses and item of \$532.69 cash on hand, being the property shown by amended Exhibit "A" presented at the hearing May 1, 1922.

It is hereby further ordered, that Verdugo Hills Transportation Company, a corporation, be and it is hereby authorized and empowered to issue to A. J. Richardson, in payment therefor, 3098 shares of its capital stock, to T. E. Richardson one share of its capital stock, and to Don Campbell one share of its capital stock, each share of the par value of \$10, upon receipt of suitable transfer from said A. J. Richardson for all of the property described in said Exhibit "A."

The authority herein contained is granted upon the following conditions:

(1) Said A. J. Richardson shall assume and pay all encumbrances against any of the equipment to be transferred, and all indebtedness incident to the operation of said routes up to and including April 30, 1922; or, in lieu thereof, said corporation shall retain sufficient of said 3098 shares of its capital stock at par to offset said encumbrances and indebtedness.

(2) Nothing herein contained shall be construed as a finding of value of any of the property herein authorized to be transferred, except for the purposes of this order.

(3) This authority extends only to such stock as may be issued on or before sixty days after the date hereof.

(4) Within ten days after the issue of said stock or any portion thereof, said corporation shall report that fact to the Commission in a statement prepared in accordance with the terms of General Order No. 24, and until all of the stock herein authorized is issued it shall report on or before the twenty-fifth day of each month, as provided in said General Order No. 24, which order, in so far as applicable, is made a part hereof.

(5) Said transferor shall immediately cancel all tariffs and time schedules relating to said routes on file with the Railroad Commission; and transferee shall immediately file tariffs and time schedules in his own name, or adopt as his own the tariffs and time schedules relating to said routes heretofore filed with the Railroad Commission. Such filing, cancellation or adoption shall be in conformity with the provisions of General Order No. 51 and other regulations of the Railroad Commission, which, in so far as applicable, are made a part hereof.

(6) The rights and privileges hereby authorized to be transferred shall not again be sold, leased, transferred, or assigned, nor shall operation thereunder be discontinued without the previous written consent of the Railroad Commission.

(7) No vehicle may be operated in the service hereinabove described unless such vehicle is owned by the owner of said operative rights, or is leased by such owner under a contract or agreement satisfactory to the Railroad Commission.

Dated at San Francisco, California, this thirteenth day of May, 1922.

DECISION No. 10456.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION FIXING FAIR AND REASONABLE RATES FOR GAS SUPPLIED TO ITS CONSUMERS.

Application No. 6108.

Decided May 16, 1922.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Whereas, this Commission in its Decision No. 9125, in the above entitled matter, dated June 21, 1921, authorized the Pacific Gas and Electric Company to charge and collect in addition to the schedules of

rates G-1, G-3, G-4, G-5, G-6, G-7, G-8 and G-9, the sum of two (2) cents per thousand cubic feet for all gas sold based on meter readings taken on and after the first day of August, 1921, and until such time as it had collected thereunder the total sum of \$192,830; and

Whereas, it appears from investigation by this Commission that the company will have received the total sum of \$192,830 as provided in said Decision No. 9125 by the application of the two (2) cents charge upon bills based on regular meter readings taken on and after August 1, 1921, and on and before May 23, 1922.

It is hereby ordered, that Pacific Gas and Electric Company discontinue the charge of two (2) cents per thousand cubic feet based on all meter readings taken on and after May 24, 1922.

Dated at San Francisco, California, this sixteenth day of May, 1922.

DECISION No. 10459.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF ITS PREFERRED STOCK OF THE PAR VALUE OF FIVE HUNDRED THIRTY-FIVE THOUSAND, SEVEN HUNDRED DOLLARS.

Application No. 7816.

Decided May 16, 1922.

Chickering and Gregory, Cummings, Roemer and Flynn, Street, Nickens and Forward,
by Allen L. Chickering, for Applicant.

BENEDICT, *Commissioner.*

OPINION.

San Diego Consolidated Gas and Electric Company asks permission to issue and sell \$535,700 of its 7 per cent cumulative preferred stock and to use the proceeds to finance, in part, the cost of extensions, additions and betterments to its plant and properties.

By Decision No. 9988, dated January 12, 1922, in Application No. 7439, the Railroad Commission authorized applicant to issue and sell \$1,500,000 of first and refunding mortgage bonds and \$331,100 of its preferred or common stock to finance, in part, construction expenditures made prior to December 31, 1921, and construction expenditures to be incurred during the year 1922. In Exhibit "5" filed in that proceeding, applicant estimated that it would need approximately \$2,073,000 to finance its construction program in 1922.

The company now reports that its 1922 construction expenditures will exceed the estimate filed in Application No. 7439, by approximately \$517,000, this increase being occasioned by the necessity of constructing an additional gas holder of a capacity of six million cubic

feet, which with foundations, connections, meters and an oil scrubber will cost about \$516,950.50. It is to finance the cost of these additional extensions and betterments that applicant now asks permission to sell the \$535,700 of stock. The application shows that arrangements have been made to sell the stock at 96½ per cent of par value net to applicant.

Applicant as of March 31, 1922, reported outstanding \$2,705,500 of 7 per cent cumulative preferred stock and \$3,010,800 of common stock. Its outstanding bonded debt, as of the same date, is reported to consist of \$5,130,000 of first mortgage five per cent bonds due March 1, 1939, and \$2,750,000 of first and refunding mortgage 6 per cent bonds due March 1, 1939. In addition, there are outstanding \$550,000 of collateral trust 6 per cent notes due July 1, 1923, which are secured by pledge of \$688,000 of first mortgage bonds.

I herewith submit the following form of order:

ORDER.

San Diego Consolidated Gas and Electric Company having applied to the Railroad Commission for permission to issue and sell \$535,700 of stock, a public hearing having been held, and the Railroad Commission being of the opinion that the application should be granted and that the money, property or labor to be procured or paid for by such issue is reasonably required for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that San Diego Consolidated Gas and Electric Company be and it is hereby authorized to issue and sell, for cash, at not less than par, less a commission of not exceeding 3½ per cent, \$535,700 of its 7 per cent cumulative preferred stock.

The authority herein granted is subject to the following conditions:

1. Applicant shall use the net proceeds from the sale of the stock herein authorized to be issued and sold to finance, in part, the cost of such extensions, additions and betterments described in this application and in Exhibit "5" filed in Application No. 7439 as are properly chargeable to capital account under the uniform system of accounts prescribed or adopted by the Railroad Commission.

2. Applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will apply only to such stock as may be issued, sold and delivered on or before December 31, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this sixteenth day of May, 1922.

DECISION No. 10460.

IN THE MATTER OF THE APPLICATION OF EL DORADO WATER CORPORATION, A CORPORATION, FOR AN ORDER AUTHORIZING THE EXECUTION OF A MORTGAGE AND THE ISSUE OF BONDS.

Application No. 7646.

Decided May 16, 1922.

B. D. Marx Greenc, for Applicant.

BY THE COMMISSION.

OPINION.

El Dorado Water Corporation asks permission to execute a mortgage and to issue and sell \$200,000 of its series "A" first mortgage sinking fund gold bonds.

A public hearing was held by Examiner Satterwhite in San Francisco on March 24, 1922. On May 9, 1922, applicant filed a revised copy of its proposed mortgage, and the matter is now ready for decision.

El Dorado Water Corporation was organized on or about February 4, 1922, for the purpose of acquiring and operating the properties and business of El Dorado Water Company, a public utility supplying water for irrigation, domestic and public purposes in and about the city of Placerville. By Decision No. 10167 dated March 7, 1922, the Railroad Commission authorized applicant to purchase the properties of El Dorado Water Company, and in consideration to issue \$75,000 of its common stock and to assume the payment of all indebtedness and the performance of all obligations of El Dorado Water Company.

Applicant now proposes to execute a mortgage of all of its properties to secure the payment of an authorized issue of \$2,000,000 of first mortgage sinking fund gold bonds, issuable in series. As to each series the board of directors of the company may fix, among other things, the date and the maturity (not later than May 1, 1962) of such bonds, the denomination or denominations in which they shall be issued and the interest rate and redemption price and dates, and may determine whether such bonds shall be convertible and, if so, upon what

terms and conditions. All bonds of any one series at any time outstanding shall be identical in respect of date, maturity, interest rate, redemption price and dates and other terms, except that bonds of same series may be of different denominations.

The Series "A" bonds aggregate \$250,000. These bonds are dated May 1, 1922, will mature on May 1, 1947, and will bear interest at the rate of $6\frac{1}{2}$ per cent per annum. Series "A" bonds are redeemable on the first day of any month upon payment of principal, accrued interest, and if redeemed before May 1, 1927, a premium of five per cent; if redeemed on or after May 1, 1927, and before May 1, 1932, a premium of four per cent; if redeemed on or after May 1, 1932, and before May 1, 1937, a premium of three per cent; and if redeemed on or after May 1, 1937, and before May 1, 1947, a premium of two per cent.

Applicant asks permission to issue and sell \$200,000 of Series "A" bonds at 89, a price that will net the company \$178,000. It asks permission to use \$130,000 of the proceeds to pay the cost of constructing a reservoir, dam and canals, to use \$44,000 to pay and retire the outstanding bonds of El Dorado Water Company, and to use \$4,000 for working capital.

Applicant and its predecessor have been purchasing water at wholesale from Western States Gas and Electric Company under a contract, dated May 31, 1919, which provides for a maximum delivery of forty second-feet. It appears from the petition and from the testimony of R. W. Hawley, applicant's general manager, that an additional source of water supply must be developed.

The company proposes to construct a reservoir on the north fork of Webber Creek about six and one-half miles from Placerville, which will have an estimated capacity of 3200 acre-feet. The dam will be 110 feet high and have a span or crest length of 340 feet. It is thought that the land, clearing the reservoir and building the dam will cost \$80,000; the ditch, tunnel and pipe lines \$45,000; and contingencies and overhead \$5,000; the total cost being \$130,000.

Applicant believes that the construction of the dam will enable it to conserve 4800 acre-feet of water per annum, that its water supply for irrigation purposes will be considerably increased and that through building the reservoir the cost of water purchased will be reduced from approximately \$15,000 to \$8,000 per annum. In addition, the company will be in a position to take on additional consumers.

Applicant acquired its properties from El Dorado Water Company subject to outstanding bonded indebtedness of \$46,000. Applicant reports that it is necessary to retire this bonded debt, in order

that the new bonds may be a first lien on its properties. It appears that \$2,000 in cash is in the hands of the trustee to be applied to the redemption of bonds, and that the remainder must be secured from the sale of the bonds herein requested. Applicant asks permission to issue \$44,000 of bonds for this purpose.

The record shows that of the outstanding bonds of El Dorado Water Company, \$25,000 were delivered to Western States Gas and Electric Company for properties, \$8,000 are pledged as collateral and the remaining bonds were sold at prices ranging from 92 to par. The testimony herein shows that applicant may purchase the bonds held by Western States Gas and Electric Company at not more than 95, and that the remaining bonds may be acquired by applicant at the same price they were purchased.

Applicant further desires permission to use not less than \$4,000 of the proceeds from the sale of its bonds to provide a working cash capital, it reporting that at least that amount is necessary in the conduct of its business.

ORDER.

El Dorado Water Corporation, having applied to the Railroad Commission for permission to execute a mortgage and to issue and sell bonds, a public hearing having been held and the Railroad Commission being of the opinion that the application should be granted and that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant for the purposes specified herein;

It is hereby ordered, that El Dorado Water Corporation be and it is hereby authorized to execute a mortgage substantially in the same form as the revised copy filed in this proceeding on May 9, 1922.

It is hereby further ordered, that El Dorado Water Corporation be and it is hereby authorized to issue and sell for cash at not less than 89 per cent of face value, plus accrued interest, \$200,000 of its first mortgage sinking fund gold bonds of Series "A."

The authority herein granted is subject to the following conditions:

1. The authority herein granted to execute a mortgage is for the purpose of this proceeding only and is an approval only in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval as to such other legal requirements to which said mortgage may be subject.

2. Applicant may use the proceeds from the sale of the bonds herein authorized to provide the cost of constructing its proposed Webber Creek dam and reservoir, to retire the outstanding bonds of El Dorado

Water Company and to provide a working cash capital, all as set forth in this application and referred to in the preceding opinion.

3. Applicant shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act.

5. The authority herein granted will apply only to such mortgage as may be executed and to such bonds as may be issued, sold and delivered on or before November 30, 1922.

Dated at San Francisco, California, this sixteenth day of May, 1922.

DECISION No. 10461.

IN THE MATTER OF THE APPLICATION OF L. A. NARES FOR AUTHORITY TO SELL CERTAIN PROPERTY TO LATON WATER COMPANY, A CORPORATION, AND OF LATON WATER COMPANY, A CORPORATION, TO BUY SAID PROPERTY.

Application No. 7643.

Decided May 16, 1922.

Lindsay and Conley, by *C. O. Hansen*, for Applicants.

BY THE COMMISSION.

OPINION.

A public hearing was held by Examiner Westover at Fresno upon the above entitled application for authority to transfer a water system at Laton, Fresno County; the application being amended by leave at the hearing to include a request for authority to issue 200 shares of the capital stock of Laton Water Company at their par value of \$50 per share for the purpose of acquiring the plant and making additions and betterments.

It appears from the testimony that the system in question was acquired by Mr. Nares in connection with other properties in and about Laton, and that these properties have been disposed of, except a few lots in Laton, and that it is the desire of the consumers that they be served by a local company rather than a nonresident, as they feel that local people can give an improved service and Mr. Nares wishes to dispose of the property.

The agreed purchase price is \$1,000, payable \$250 upon execution of agreement dated October 1, 1921, and \$250 annually thereafter until

October 1, 1924, with interest on deferred payments at 7 per cent. The property included in the transfer is shown to have been appraised by four local appraisers at \$3,200.

The corporation heretofore issued 44 shares of stock at par, amounting to \$2,200, and has collected \$730 on account thereof, the balance being subject to call by the corporation. It has made some extensions and has bought material for a proposed extension of its system to the east of the railroad for a distance of five or six blocks to a group of about ten consumers. The estimated present needs of the company for these purposes are \$1,470, and about \$450 to replace the motor and pump in about a year. As the stock previously issued is void under the Public Utilities Act because authority was not obtained from the Commission for its issue, the company now asks authority to issue \$2,200 par value of its said stock in lieu of that previously issued or contracted for in good faith without knowledge of the fact that previous authorization was necessary to its validity. It was originally planned to sell stock only to consumers on the system, and operate as a mutual water company; and, in pursuance of that plan, the company began operating the system October 1, 1921. The company's plan to operate as a mutual company has not been carried out and it now proposes to operate as a public utility.

ORDER.

A public hearing having been held upon the above entitled application, the matter being submitted, and now ready for decision, and the Commission being of the opinion that the money, property or labor to be procured or paid for by the stock hereinafter referred to is reasonably required for the purpose or purposes specified in this order, and that the expenditures for such purpose or purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income;

It is hereby ordered, that L. A. Nares be and he is hereby authorized and empowered to transfer to Laton Water Company, a corporation, the following described real and personal property in the town of Laton, Fresno County, to wit:

Beginning at a point in the southwesterly line of Lot B. Town of Laton, and 335 feet northwesterly from the southwest corner of said lot; thence northeasterly and parallel to the southeasterly line of said lot a distance of seventy (70) feet; thence southeasterly and parallel to the southwesterly line of said lot a distance of eighty-five (85) feet; thence southwesterly and parallel to the southeasterly line of said lot a distance of seventy (70) feet; thence northwesterly along the southwesterly line of said lot a distance of eighty-five (85) feet to the point of beginning, as shown by map or plat of the Town of Laton now on file and of record in the office of the county recorder of Fresno County, State of California.

Also all tanks, pumps, motors, piping, mains in the streets and alleys of said Town of Laton, and all fixtures and appurtenances thereunto belonging to said L. A. Nares, and used in the operation and maintenance of the water system in the Town of Laton;

in consideration of the agreed purchase price of \$1,000 therefor, of which \$250 has heretofore been paid and the remainder to be paid in three equal installments of \$250 each on the first day of October, 1922, 1923, and 1924, with interest on all deferred payments at the rate of 7 per cent per annum, payable annually.

It is hereby further ordered, that Laton Water Company, a corporation, be and it is hereby authorized and empowered to issue 44 shares of its capital stock at the par value of \$50 per share, 43 shares thereof to be issued to the persons, or to their assigns, shown as subscribers therefor on Exhibit "B," attached to the above application.

The proceeds derived from the sale of said stock shall be used for the purpose of purchasing said system and for making additions and betterments thereto, but said proceeds shall not be expended until authorized by supplemental order herein, before obtaining which said Laton Water Company shall submit a detailed statement of additions, betterments or improvements proposed to be made, with the estimated cost thereof; except that said company may pay from said proceeds the installment upon said plant to become due October 1, 1922, together with the interest then accrued under its purchase contract.

The authority herein contained is upon the following conditions:

(1) Any certificate or certificates for any or either of said 44 shares of stock heretofore issued shall be surrendered and canceled at or before the time of reissue, as hereinabove authorized.

(2) The stock herein authorized to be issued shall be sold by applicant for cash at not less than its par value, and shall be issued only when fully paid for.

(3) Laton Water Company shall keep true, separate and accurate accounts showing the receipt and application, in detail, of the proceeds of the sale of the stock herein authorized to be issued, and on or before the twenty-fifth day of each month, until all of said stock has been issued and the proceeds expended, the company shall make verified report to the Railroad Commission in accordance with the Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(4) The authority herein granted to issue stock shall apply only to such stock as may be issued on or before December 31, 1922.

Dated at San Francisco, California, this sixteenth day of May, 1922.

DECISION No. 10462.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING IT TO INCREASE ITS BONDED INDEBTEDNESS BY THE SUM OF ONE HUNDRED MILLION DOLLARS, TO PROVIDE SECURITY FOR THE SAME, TO ISSUE AND SELL BONDS OF SAID INDEBTEDNESS, WHEN AUTHORIZED, OF THE PAR VALUE OF FIVE MILLION DOLLARS, TO SELL INTERIM CERTIFICATES OF FIVE MILLION DOLLARS PAR VALUE, PENDING THE AUTHORIZATION OF THE DEFINITIVE BONDS, AND TO SELL AND CONVEY CERTAIN PROPERTY; AND

IN THE MATTER OF THE APPLICATION OF EL DORADO POWER COMPANY FOR AN ORDER AUTHORIZING IT TO ISSUE STOCK, TO EXECUTE A MORTGAGE FOR THE PURPOSE OF SECURING THE ABOVE MENTIONED WESTERN STATES GAS AND ELECTRIC COMPANY BONDED INDEBTEDNESS, AND TO EXECUTE A LEASE OF ALL ITS PROPERTIES TO THE WESTERN STATES GAS AND ELECTRIC COMPANY.

Application No. 7551.

Decided May 16, 1922.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

On February 21, 1922, the Railroad Commission, by Decision No. 10118 in the above entitled matter, authorized Western States Gas and Electric Company to issue and sell \$5,000,000 of bonds subject, among others, to the conditions that none of the bonds be issued until the execution of the mortgages has been authorized and that the proceeds be expended only for such purposes as the Railroad Commission may authorize by supplemental order or orders.

On May 9, 1922, the El Dorado Power Company, all of whose stock, except shares necessary to qualify directors, is owned by the Western States Gas and Electric Company, filed with the Commission a copy of its proposed mortgage or deed of trust which it intends to execute to secure the payment of the first and unified mortgage gold bonds of Western States Gas and Electric Company. On the same date the Western States Gas and Electric Company filed with the Commission a copy of its proposed mortgage or deed of trust securing the payment of its first and unified mortgage gold bonds. The companies have asked permission to execute mortgages or deeds of trust substantially in the same form as those filed with the Commission. The proposed mortgages or deeds of trust have been examined by the Commission and it is of the opinion that applicants' requests should be granted, as herein provided; therefore,

It is hereby ordered, that Western States Gas and Electric Company be and it is hereby authorized to execute a mortgage or deed of trust

substantially in the same form as the mortgage or deed of trust filed in this proceeding on May 9, 1922, provided:

That the authority herein granted to execute a mortgage or deed of trust is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage or deed of trust as to such other legal requirements to which said mortgage or deed of trust may be subject.

It is hereby further ordered, that El Dorado Power Company be and it is hereby authorized to execute a mortgage or deed of trust substantially in the same form as the mortgage or deed of trust filed in this proceeding on May 9, 1922; provided:

That the authority herein granted to execute a mortgage or deed of trust is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage or deed of trust as to such other legal requirements to which said mortgage or deed of trust may be subject.

It is hereby further ordered, that the order in Decision No. 10118, dated February 21, 1922, be and it is hereby modified so as to permit Western States Gas and Electric Company to use the proceeds obtained from the sale of the \$5,000,000 of bonds, authorized to be issued and sold by said order, to pay in whole or in part the cost of constructing the hydro-electric plant and appurtenances described in this application, provided:

That Western States Gas and Electric Company will file with the Commission detailed monthly reports showing the amounts expended on said hydro-electric plant and appurtenances and the purposes for which the expenditures were made.

It is hereby further ordered, that the order in Decision No. 10118, dated February 21, 1922, shall remain in full force and effect except as modified by this second supplemental order.

Dated at San Francisco, California, this sixteenth day of May, 1922.

DECISION No. 10475.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AN ORDER AUTHORIZING THE EXECUTION OF A COLLATERAL TRUST AGREEMENT, THE ISSUE AND SALE OF TWO MILLION SIX HUNDRED TWENTY-FIVE THOUSAND DOLLARS OF COLLATERAL TRUST BONDS AND THE ISSUE OF TWO MILLION SIX HUNDRED TWENTY-FIVE THOUSAND DOLLARS OF FIRST AND REFUNDING BONDS.

Application No. 6146.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE, SALE AND EXCHANGE OF BONDS.

Application No. 7715.

Decided May 17, 1922.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

By Decision No. 8264 dated October 21, 1920, in Application No. 6146, the Railroad Commission authorized San Joaquin Light and Power Corporation to issue and deposit \$2,625,000 of its Series C 6 per cent first and refunding mortgage bonds to secure the payment of \$2,625,000 of Series D 8 per cent convertible collateral trust bonds, subject among others to the condition that upon the payment of the collateral trust bonds, the Series C first and refunding bonds be returned to applicant's treasury and thereafter issued only as authorized by the Commission.

By Decision No. 10294 dated April 8, 1922, in Application No. 7715, the Commission authorized San Joaquin Light and Power Corporation to issue \$2,625,000 of its Series C 6 per cent first and refunding mortgage bonds in exchange for \$2,625,000 of Series D 8 per cent convertible collateral trust bonds.

Applicant has called for payment its Series D 8 per cent convertible collateral trust bonds. It reports that \$1,492,000 of its Series C first and refunding mortgage bonds have been exchanged for Series D bonds, leaving \$1,133,000 of Series C bonds, which, upon the payment of the Series D bonds, must be returned to applicant's treasury under the order of the Commission.

Applicant's unifying and refunding mortgage and deed of trust requires the deposit of the \$1,133,000 of Series C bonds with the trustee under the unifying and refunding mortgage or deed of trust.

The Commission is of the opinion that its orders heretofore made in the above entitled proceeding should be modified so as to permit the company to deposit with the trustee the Series C bonds.

It is therefore ordered, that the order in Decision No. 8264 dated October 21, 1920, and the order in Decision No. 10294 dated April 8, 1922, be and they are hereby modified so as to permit San Joaquin

Light and Power Corporation to deposit with the trustee under its unifying and refunding mortgage and deed of trust, \$1,133,000 of Series C first and refunding mortgage 6 per cent bonds pursuant to the terms and conditions of said unifying and refunding mortgage and deed of trust.

It is hereby further ordered, that the order in Decision No. 8264 dated October 21, 1920, and the order in Decision No. 10294 dated April 8, 1922, as amended, shall remain in full force and effect, except as modified by this second supplemental order.

Dated at San Francisco, California, this seventeenth day of May, 1922.

DECISION No. 10476.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ISSUE AND SELL SEVENTY-FIVE THOUSAND SHARES OF ITS COMMON CAPITAL STOCK OF THE PAR VALUE OF ONE HUNDRED DOLLARS EACH.

Application No. 7373.

Decided May 17, 1922.

BY THE COMMISSION.

FIFTH SUPPLEMENTAL ORDER.

Southern California Edison Company having reported to the Railroad Commission that during the months of February and March, 1922, it expended \$2,280,738.04 for plant extensions, additions and betterments, as shown in Exhibit "5" filed with the fifth supplemental petition in the above entitled matter, and having asked permission to use not exceeding \$2,280,738.04 of the proceeds obtained, or which may be obtained, from the sale of stock which the Commission has heretofore authorized to be issued, to finance such expenditures, and the Railroad Commission having considered applicant's request and being of the opinion that the request should be granted, as herein provided;

It is hereby ordered, that Southern California Edison Company be and it is hereby authorized to use not exceeding \$2,280,738.04 of the proceeds obtained, or which may be obtained, from the sale of the stock authorized to be issued and sold by orders in decisions in Applications Nos. 2743, 4790, 5312, 6426 and 7373, to finance such cost of the plant extensions, additions and betterments referred to in Exhibit "5" filed with the fifth supplemental petition in the above entitled matter as may properly be chargeable to capital account under the uniform system of accounts prescribed or adopted by the Railroad Commission.

It is hereby further ordered, that the orders in decisions in Applications Nos. 2743, 4790, 5312, 6426 and 7373 shall remain in full force and effect except as modified by this fifth supplemental order.

Dated at San Francisco, California, this seventeenth day of May, 1922.

DECISION No. 10481.

IN THE MATTER OF THE APPLICATION OF COAL FIELDS RAILWAY
FOR AUTHORITY TO ISSUE CAPITAL STOCK.

Application No. 7831.

Decided May 20, 1922.

Thomas, Beedy and Lanagan, for Applicant.

BENEDICT, Commissioner.

OPINION.

In this application Coal Fields Railway, a corporation, asks permission to issue \$25,000 par value of its common capital stock.

By Decision No. 9784, dated November 18, 1921, in Application No. 7329, the Railroad Commission authorized Joseph A. Chanslor to lease to the Coal Fields Railway a certain line of railway and properties appurtenant thereto extending from the mines of the Stone Canyon Coal Company in Monterey County to McKay Station on the lines of the Southern Pacific in San Luis Obispo County. It appears from the record in this proceeding that Joseph A. Chanslor has sold the Stone Canyon Coal Company properties and that the purchaser has expended approximately \$125,000 in rehabilitating the railway properties.

Applicant has agreed to deposit the \$25,000 of stock with the Anglo and London Paris National Bank in accordance with the terms of an escrow agreement dated February 14, 1922. If the purchaser of the coal company properties fails to comply with the sale agreement, the stock will be delivered to Joseph A. Chanslor.

I herewith submit the following form of order:

ORDER.

Coal Fields Railway having applied to the Railroad Commission for permission to issue \$25,000 of its common stock, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that this application should be granted as herein provided;

It is hereby ordered, that Coal Fields Railway be and it is hereby authorized to issue at not less than par \$25,000 par value of its common capital stock to finance in part the cost of the properties now operated under lease by the Coal Fields Railway.

47-17236

The authority herein granted is subject to further conditions as follows:

1. The stock herein authorized to be issued shall be deposited in escrow with the Anglo and London Paris National Bank in accordance with the terms of the agreement of February 14, 1922.

2. Coal Fields Railway shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twentieth day of May, 1922.

DECISION No. 10482.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA-OREGON POWER COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE ISSUANCE AND SALE OF BONDS.

Application No. 6574.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA-OREGON POWER COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE ISSUANCE AND SALE OF BONDS.

Application No. 7488.

Decided May 20, 1922.

BY THE COMMISSION.

TWELFTH SUPPLEMENTAL ORDER.

The California-Oregon Power Company reports in its thirteenth supplemental petition filed in Application No. 6574 that it has expended for additions and betterments to its plants and properties during the month of March, 1922, the sum of \$177,844.85. Of this amount \$79,607.51 was expended for raising the Copco dam, enlarging the Copco power house and installing therein a second generating unit, and \$75,774.34 was expended in the construction of the 115-mile high tension transmission line from Prospect, Oregon, to Springfield, Oregon, to connect with the Mountain States Power Company system.

By Decision No. 9305, dated July 30, 1921, the Commission authorized applicant to use \$150,000 obtained from the sale of bonds to complete its Link River dam, make provision for storage in the Upper Klamath

Lake, install a power plant on Link River to utilize the present water rights, construct additions to and betterments of the generating, transmission and distribution system of the company during 1921, pay for engineering and preliminary work at Prospect and pay engineering and construction work at Copeo necessary for the installation of a second unit. Applicant reports that it has used \$75,774.34 of the \$150,000 in connection with the construction of the new transmission line. It asks the Commission to approve this expenditure.

In Decision No. 8731, dated March 10, 1921, the company was authorized to issue and sell \$1,849,000 of Series "A" first and refunding mortgage bonds. The Commission by supplemental orders in Application No. 6574 authorized the expenditure of all the proceeds obtained from the sale of bonds, except \$282.97.

By Decision No. 10009, dated January 21, 1922, applicant was authorized to issue and sell \$1,000,000 of Series "B" first and refunding mortgage bonds subject to the condition, among others, that none of the proceeds be expended except for such purposes as the Commission may hereafter authorize. The company asks that it be permitted to use \$27,561.88 obtained from the sale of the \$1,000,000 together with the unexpended balance, \$282.97, obtained from the sale of the \$1,849,000 of bonds to finance in part its March construction expenditures.

Applicant further asks that it be permitted to use \$300,000 obtained from the sale of its Series "B" bonds without further order from the Commission for one or more of the following purposes:

(1) Additions to and betterments of the generating, transmission and distribution system of the company.

(2) The raising of the Copeo dam and installation of the second unit at the Copeo plant.

(3) Construction and completion of transmission line from Prospect to Eugene, Oregon, via Springfield, in accordance with an agreement with the Mountain States Power Company heretofore submitted to the Railroad Commission.

The company agrees that it will file with the Commission detailed statements showing the purposes for which the \$300,000 was expended. We are not satisfied with the manner in which the company has reported the expenditures of the \$150,000 heretofore allowed by the Commission as a working fund and believe a time limit should be placed upon the expenditures of the \$300,000.

The Commission has considered applicant's request and believes that the orders in Applications No. 6574 and No. 7488 should be modified so as to permit The California-Oregon Power Company to use the proceeds obtained from the sale of bonds as herein provided.

It is therefore ordered, that The California-Oregon Power Company be and it is hereby authorized to expend \$76,057.31 of the proceeds

obtained from the sale of its Series "A" first and refunding bonds authorized by Decision No. 8731, dated March 10, 1921, as amended, and \$27,561.88 obtained from the issue and sale of its Series "B" first and refunding bonds authorized by Decision No. 10009, dated January 21, 1922, as amended, to finance in part construction expenditures not otherwise capitalized and made prior to March 31, 1922, as shown in Exhibit "A" attached to the thirteenth supplemental petition filed in Application No. 6574.

It is hereby further ordered, that The California-Oregon Power Company be and it is hereby authorized to use an additional \$300,000 of the proceeds obtained from the sale of its Series "B" first and refunding bonds authorized by Decision No. 10009, dated January 21, 1922, as amended, to pay in part such cost of the additions to and betterments of its generating, transmission and distribution systems, the raising of the Copco dam, the installation of a second unit at the Copco plant and the construction and completion of the transmission line from Prospect to Eugene, Oregon, via Springfield, as is properly chargeable to capital account under the uniform classification of accounts prescribed by the Railroad Commission, provided that the authority herein granted will apply only to such expenditures as may be incurred on or before August 15, 1922, and provided further, that applicant will file with the Commission detailed statements showing the purposes for which the \$300,000 was expended.

It is hereby further ordered, that the orders in Decision No. 8731, dated March 10, 1921, as amended, and in Decision No. 10009, dated January 21, 1922, as amended, shall remain in full force and effect, except as modified by this twelfth supplemental order.

Dated at San Francisco, California, this twentieth day of May, 1922.

DECISION No. 10484.

IN THE MATTER OF THE APPLICATION OF PICKWICK STAGES, NORTHERN DIVISION, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AN AUTOMOBILE STAGE LINE FOR THE TRANSPORTATION OF PASSENGERS AND EXPRESS PACKAGES BETWEEN SANTA MARIA AND MARICOPA AND INTERMEDIATE POINTS.

Application No. 5273.

Decided May 20, 1922.

CERTIFICATE—REVOCATION OF—INAUGURATION OF SERVICE—REASONABLE TIME.—It is held that when service is not begun within a reasonable time after the granting of a certificate and no application is made for extension of time, ground is afforded for revoking and annulling the operative rights previously granted.

Harry A. Encell, for Frank C. Lloyd.

BY THE COMMISSION.

FIRST SUPPLEMENTAL OPINION AND ORDER.

Pickwick Stages, Northern Division, a corporation, by Decision No. 7081 on the above entitled application as decided February 5, 1920, were authorized to operate as a common carrier of passengers and express between Santa Maria and Maricopa and intermediate points, and tariffs were duly filed with this Commission covering the operation authorized by said Decision No. 7081. The Commission having received information that no service had been rendered at any time under the provisions of the certificate granted, an order to show cause was issued under date April 25, 1922, directing applicant herein to appear and show cause why the certificate of public convenience and necessity heretofore granted by this Commission's Decision No. 7081 should not be revoked and annulled. Due service of the order to show cause was made upon Pickwick Stages, Northern Division, a corporation, and the hearing on said order to show cause was conducted by Examiner Handford at San Francisco on May 18, 1922, the matter was duly submitted and is now ready for decision.

At the hearing on the order to show cause there was no appearance on behalf of applicant.

It appears from the testimony and the records of the Commission that there has been no service rendered by applicant herein over the route between Santa Maria and Maricopa covered by the certificate issued in Decision No. 7081 under date February 5, 1920, although the tariffs of applicant have contained a reference to this service as appearing in the tariff of Pickwick Stages, Northern Division, C. R. C. No. 7 and effective May 15, 1920. Reissues of the tariffs of the Pickwick Stages, Northern Division, have also contained rates over the territory between Santa Maria and Maricopa and intermediate points.

While the order in the Commission's Decision No. 7081 contained no requirement as to the date upon which service should be commenced the public has been unable to receive any service whatsoever by the facilities of the applicant over this route notwithstanding that a tariff filing covering rates therefor was regularly made with this Commission. It further appears that a certificate of public convenience and necessity has been granted to one Frank C. Lloyd, covering operation between Santa Maria and Maricopa, such authority being conferred by Decision No. 9537 on Application No. 6932 as decided September 22, 1921, and it appears from the testimony herein that operation is now being given over this route by said Lloyd and that such operation was commenced shortly after the granting of the certificate to said Lloyd and was continued until December 24, 1921, when weather and road conditions rendered it impossible to conduct service. Service was resumed on

April 15, 1922, and has since been regularly given in accordance with published time schedules, and is being operated at this time.

In view of the fact that service by applicant herein was not inaugurated within a reasonable period of time, that no application was made to this Commission for an extension of time in which to operate and that the present necessity for transportation between Santa Maria and Maricopa and intermediate points is cared for by the service of an authorized carrier, we are of the opinion that the operative right heretofore granted to applicant herein should be revoked and annulled.

ORDER.

Public hearing having been held on the order to show cause as issued in the above entitled proceeding under date April 25, 1922, the matter having been duly submitted and the Commission being fully advised and basing its opinion on the finding of fact as contained in the opinion which precedes this order;

It is hereby ordered, that the rights and privileges heretofore granted to applicant herein under the provisions of Decision No. 7081 on Application No. 5273 as decided February 5, 1920, and covering the operative rights for the conduct of an automobile stage line as a common carrier of passengers and express between Santa Maria and Maricopa and intermediate points be and the same hereby are revoked, canceled and annulled.

It is hereby further ordered, that immediate cancellation be made by applicant of tariff filings covering the above mentioned route as now appearing in section 9 of applicant's tariff as filed with this Commission under C. R. C. No. 16.

Dated at San Francisco, California, this twentieth day of May, 1922.

DECISION No. 10485.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO GAS AND ELECTRIC COMPANY, A CORPORATION, TO ISSUE STOCK OF THE PAR VALUE OF TWO HUNDRED FORTY-NINE THOUSAND SEVEN HUNDRED DOLLARS.

Application No. 7635.

Decided May 22, 1922.

Chickering and Gregory; Sweet, Stearns and Forward; Cummins, Rocmer and Flynn, by Allen L. Chickering, for Applicant.

BENEDICT, *Commissioner*.

OPINION.

San Diego Gas and Electric Company asks permission to issue at par to San Diego Consolidated Gas and Electric Company, \$249,700 of

its capital stock for the purpose of paying, in part, its outstanding indebtedness.

San Diego Gas and Electric Company was organized on or about December 24, 1920, with an authorized capital stock of \$250,000 divided into 2500 shares of the par value of \$100 each. Three shares, which are held by directors, are outstanding at this time. The record shows that the company acquired the power plant formerly owned by San Diego Electric Railway Company and thereafter leased its properties at a nominal rental to San Diego Consolidated Gas and Electric Company. It appears that applicant was organized primarily for the purpose of acquiring the power plant in order that a new mortgage and deed of trust, executed jointly by San Diego Consolidated Gas and Electric Company and applicant, would be a first lien on some properties.

It appears from the petition that San Diego Consolidated Gas and Electric Company has advanced applicant \$1,492,538.93 and that these advances have been used in the purchase of properties and in the construction of extensions, additions and betterments. To liquidate, in part, these advances, applicant now asks permission to issue and deliver all of its unissued common stock, \$249,700, at par to San Diego Consolidated Gas and Electric Company.

I herewith submit the following form of order:

ORDER.

San Diego Gas and Electric Company having applied to the Railroad Commission for permission to issue stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose specified herein and that the expenditures for such purpose are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that San Diego Gas and Electric Company be and it is hereby authorized to issue and sell at par \$249,700 of its capital stock for the purpose of paying, in part, the advances made by San Diego Consolidated Gas and Electric Company and referred to in the foregoing opinion.

It is hereby further ordered, that San Diego Consolidated Gas and Electric Company be and it is hereby authorized to purchase and acquire the stock which San Diego Gas and Electric Company is herein authorized to issue.

The authority herein granted is subject to the following conditions:

1. San Diego Gas and Electric Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the

disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will apply only to such stock as may be issued, sold or delivered on or before September 30, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-second day of May, 1922.

DECISION No. 10489.

IN THE MATTER OF CALDWELL WAREHOUSE COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK.

Application No. 7731.

Decided May 22, 1922.

Stanley Pedder, for Applicant.

BENEDICT, Commissioner.

OPINION.

Caldwell Warehouse Company asks permission to issue \$25,000 par value of its common capital stock.

Applicant corporation was organized October 21, 1918, for the purpose of acquiring from R. H. Van Sant, Jr., and A. B. Caldwell a sub-lease to a portion of the premises at 310 Brannan street, San Francisco. On November 8, 1918, the Commissioner of Corporations authorized applicant to issue \$25,000 par value of stock, subject to a condition that \$24,700 of the stock be deposited with the Corporation Department and not disposed of by R. H. Van Sant, Jr., and A. B. Caldwell unless authorized by the Commissioner of Corporations. The stock issued to R. H. Van Sant, Jr., has since been acquired by P. H. Goodwin. The record shows that applicant has about 60,000 square feet of warehouse space at 310 Brannan street and 20,000 square feet in a building at Fifth and Townsend streets. After July 1st of this year, it will obtain possession of the entire building at 310 Brannan street and will have about 100,000 square feet of warehouse space.

The testimony shows that at the time the Commissioner of Corporations made his order authorizing applicant to issue stock, it was believed that the company was not a public utility. For that reason, no application was filed with the Railroad Commission. Since then, applicant has engaged in a general warehouse business and has filed rates with the Commission. The validity of the issue of its stock having been

questioned by the Commission, applicant concluded to file this application for permission to issue \$25,000 of stock for the purpose of acquiring properties.

I herewith submit the following form of order:

ORDER.

Caldwell Warehouse Company having applied to the Railroad Commission for permission to issue stock, a public hearing having been held and the Commission being of the opinion that this application should be granted as herein provided;

It is hereby ordered, that Caldwell Warehouse Company be and it is hereby authorized to issue and sell for not less than par \$25,000 par value of its common capital stock for the purpose of acquiring, operating and conducting warehouse properties and business described in this application; provided:

That Caldwell Warehouse Company will keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-second day of May, 1922.

DECISION No. 10499.

IN THE MATTER OF THE APPLICATION OF MARY ANTHONY, AS GRANTOR, AND JAMES H. OWEN, AS GRANTEE, FOR AN ORDER AUTHORIZING THE SALE OF THE ANTHONY WATER SYSTEM, SUPPLYING THE TOWN OF SMITH RIVER, CALIFORNIA.

Application No. 7744.

Decided May 24, 1922.

W. J. Ward, for James H. Owen.
Mary Anthony, in propria persona.

BY THE COMMISSION.

OPINION.

A public hearing was held by Examiner Westover at Smith River upon the above application for authority to transfer The Anthony Water System, supplying domestic water in and about the town of Smith River, Del Norte County.

Water is diverted from Dominy Creek and conveyed by covered flume to a small storage tank, and thence distributed by three- and two-inch mains through the principal streets to some fifty consumers.

The water system, which was originally installed over thirty years ago, has been purchased for \$1,000 by James H. Owen individually, subject to the approval of the Commission.

It appears that Mr. Owen is better able to operate the system than is Mrs. Anthony, the widow of the former owner, and that he is ready, willing and able to install the necessary repairs and betterments to improve the present service, concerning which there is considerable complaint because of poor pressure, and, at times, of muddy water. It appears from the testimony of a number of consumers that the community demands an improved service and is able and willing to pay rates which will produce a fair return upon the investment necessary to provide adequate service.

ORDER.

A public hearing having been held upon the above entitled application, the matter being submitted, and now ready for decision;

It is hereby ordered, that Mrs. Anthony be and she is authorized and empowered to hereafter transfer to James H. Owen the flume, storage facilities, pipe lines, easements, franchise and water rights incident to or pertaining to what is known as The Anthony Water System, supplying domestic water in the town of Smith River and vicinity, in Del Norte County.

This authority is granted upon the following conditions:

1. The authority herein contained shall extend only to such transfer as may be made within sixty days from the date hereof.
2. Within ten days after any such instrument of transfer is executed and delivered, the transferee shall file a copy thereof with the Commission.
3. Nothing herein contained shall be construed as a finding of value of the property sought to be transferred for any purposes other than those of this proceeding.

Dated at San Francisco, California, this twenty-fourth day of May, 1922.

DECISION No. 10506.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA-OREGON POWER COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE ISSUANCE AND SALE OF PREFERRED STOCK OF THE PAR VALUE OF TWO HUNDRED THOUSAND DOLLARS.

Application No. 7808.

Decided May 26, 1922.

Morrison, Dunn and Brobeck, for Applicant.*BENEDICT, Commissioner.***OPINION.**

The California-Oregon Power Company asks permission to issue and sell 2000 shares (\$200,000 par value) of its 7 per cent cumulative preferred stock. The company has an authorized stock issue of \$15,000,000 divided into \$7,500,000 of common and \$7,500,000 of preferred stock. Of the common, \$4,441,100 and of the preferred \$2,220,000 is reported outstanding. The outstanding stock was issued under the authority granted in Decision No. 8723, dated March 10, 1921 (Vol. 19, Opinions and Orders of the Railroad Commission of California, p. 477), in exchange for \$4,440,000 of California-Oregon Power Company bonds and unpaid interest coupons. As of April 1, 1921, the company reports \$2,961,000 of bonds outstanding. The issue of \$1,000,000 of additional bonds is authorized by the Commission in Decision No. 10009, dated January 21, 1922, which amount, added to the \$2,961,000, makes a total bonded debt of \$3,961,000.

Applicant is engaged in building a transmission line to connect its system with that of the Mountain States Power Company and installing an additional unit in its Copco hydro-electric plant. Its president testified that the proceeds from the sale of the \$1,000,000 of bonds mentioned above will be inadequate to complete applicant's 1922 construction program. It has been concluded to secure additional funds through the issue and sale of \$200,000 of 7 per cent cumulative preferred stock. This stock will be offered to applicant's employees. Applicant asks permission to expend an amount not in excess of \$2 per share in payment of commissions, salaries, advertising and other expenses incidental to the sale of the stock. It agrees that the remainder of the proceeds will be expended only for such purposes as the Railroad Commission may hereafter authorize.

I herewith submit the following form of order:

ORDER.

The California-Oregon Power Company having applied to the Railroad Commission for permission to issue and sell \$200,000 par value of its 7 per cent cumulative preferred stock, a public hearing having been

held, and the Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of such stock is reasonably required by applicant and that this application should be granted as herein provided;

It is hereby ordered, that the California-Oregon Power Company be and it is hereby authorized to issue and sell, for cash, at not less than \$90 per share, 2000 shares (\$200,000 par value) of its 7 per cent cumulative preferred stock.

The authority herein granted is subject to further conditions as follows:

1. All of the proceeds received from the sale of the stock, less an amount not exceeding \$2 per share, shall be deposited in a special account with a bank or banks, or with a trust company or trust companies, and expended only for such purposes as the Railroad Commission may hereafter authorize. An amount not in excess of \$2 per share may be expended for the payment of commissions, salaries, advertising and other expenses incidental to the sale of the stock.

2. The California-Oregon Power Company shall keep such record of the issue and sale of the stock and of the disposition of proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will apply only to such stock as may be issued, sold or delivered on or before December 31, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-sixth day of May, 1922.

DECISION No. 10514.

IN THE MATTER OF THE APPLICATION OF THE ST. HELENA WATER COMPANY AND THE TOWN OF ST. HELENA FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE SALE AND PURCHASE OF THE PROPERTY OF THE ST. HELENA WATER COMPANY.

Application No. 7883.

Decided May 29, 1922.

BY THE COMMISSION.

ORDER.

The St. Helena Water Company, a public utility corporation serving water for domestic and other purposes in and in the vicinity of the town of St. Helena, Napa County, having been authorized by its board

of directors to apply to this Commission for permission to sell certain public utility property to the town of St. Helena for the sum of \$60,000, and the board of trustees of the town of St. Helena having duly passed and adopted resolutions approving such transaction:

And it appearing that the interests of the consumers will be better served if such transfer is made, and it further appearing that this is not a matter in which a public hearing is necessary and that the application should be granted;

It is hereby ordered, that St. Helena Water Company be and it is hereby authorized to sell and convey to said town of St. Helena its certain water distributing system, together with lands, etc., pertaining thereto, more particularly described in the form of deed attached to and accompanying the application known as Exhibit "A" thereof, subject to the following conditions:

1. The authority herein granted shall apply only to such transfer as shall have been made on or before December 31, 1922, and a certified copy of the final instrument of conveyance shall be filed with this Commission within thirty (30) days from the date on which it is executed.

2. Within ten (10) days from the date on which St. Helena Water Company actually relinquishes control and possession of the property herein authorized to be sold, it shall file with this Commission a certified statement indicating the date upon which such control and possession was relinquished.

3. The consideration given for the transfer of this public utility property shall not be urged before this Commission or any other public body as a finding of value for rate fixing or any purpose other than the transfer herein authorized.

Dated at San Francisco, California, this twenty-ninth day of May, 1922.

DECISION No. 10515.

IN THE MATTER OF THE APPLICATION OF HERMOSA BEACH WATER CORPORATION FOR AN ORDER AUTHORIZING IT TO SELL, IN PLACE, THE OIL, GAS OR OTHER HYDRO-CARBON SUBSTANCES, IF ANY, UNDERLYING CERTAIN REAL PROPERTY OWNED BY IT.

Application No. 7553.

Decided May 29, 1922.

Carnahan and Clark, by *Oliver O. Clark*, for Applicants.

Frank L. Perry, City Attorney, for City of Hermosa Beach, Protestant.

BY THE COMMISSION.

OPINION.

In this application the Railroad Commission is asked to make an order authorizing the Hermosa Beach Water Corporation to sell, in

place, the oil, gas, or other hydro-carbon substances, if any, under certain real property owned by it, comprising about fifteen acres, situated near the city of Hermosa Beach, Los Angeles County, and more particularly described in the application, to F. D. Cornell Company, which is also the owner of the Hermosa Beach Water Corporation, the F. D. Cornell Company joining in the application.

Hearings were held in this matter before Examiner Williams at Hermosa Beach, on April 4, 1922, and at Los Angeles, April 5, 1922.

The testimony shows that the Hermosa Beach Water Corporation is a public utility supplying domestic water to Hermosa Beach and vicinity, obtaining all of its water from wells situated on a portion of the property involved in this proceeding. The pumping equipment covers only a small portion of the tract, leaving a large area which might be regarded as nonoperative property except in so far as it is useful in preventing contamination of the water supply by excluding therefrom any oil or gas wells.

The issue presented in this application was whether or not the water company could permit the boring of oil or gas wells on its water-bearing lands without thereby endangering the purity and quantity of its water supply. However, applicants contend and the evidence shows that the water supply can be adequately protected by observance of proper precautions in drilling such oil and gas wells upon the tract in question. We conclude, therefore, that the application can be granted, subject to the conditions hereinafter set forth, without prejudice to the interests of the public dependent upon this water supply.

ORDER.

Application having been filed with this Commission for permission to sell, in place, the oil, gas, or other hydro-carbon substances, if any, underlying certain real property owned by the Hermosa Beach Water Corporation, a public utility, public hearings having been held and the matter submitted;

It is hereby ordered, that said application be and the same is hereby granted upon the following conditions:

1. No well for oil, gas, or other hydro-carbon substances, shall be located within 500 feet of any well now existing or being drilled, from which the Hermosa Beach Water Corporation obtains or seeks to obtain its water supply, in whole or in part, unless otherwise ordered by supplemental order of this Commission.

2. No well for oil, gas, or other hydro-carbon substances shall be located on that portion of the property of the Hermosa Beach Water Corporation lying to the north and west of the county highway, being that property designated in applicant's Exhibit No. 2 as tracts "A," "B" and "C."

3. In the event that any well drilled pursuant to the authority herein granted, in which water has been encountered, is abandoned as an oil or gas well, then such well, together with a complete string of casing properly installed and landed at a point below the chief water-bearing strata, shall become the property of the Hermosa Beach Water Corporation without cost or expense to said corporation.

4. Any well drilled for oil or gas upon the property of the Hermosa Beach Water Corporation shall be properly encased with an outside casing, of not less than 20 inches diameter, to a depth sufficient to reach a hard formation suitable for landing the casing and allowing the same to be cemented in by the usual and proper process employed for that purpose, but in any event, such casing shall be carried to a depth of not less than 500 feet. Within said outside casing there shall be installed an inner screw casing of a diameter not greater than six inches less than the diameter of the outside casing, and the space between the inner and outer casing shall be properly filled with cement for the entire depth of the outside casing, and the top of said casings shall be anchored in a suitable manner with a solid block of concrete and properly tied in with anchor rods. The installation of said casings and compliance with this condition in all particulars shall be carried out under the direct supervision of the State Oil and Gas Supervisor, and shall, in all particulars not herein specifically set forth, be done in accordance with the orders of said supervisor.

5. The foregoing conditions, 1 to 4, inclusive, shall be embodied in the provisions of the deed or other instrument used for the transfer of the property or rights therein as herein authorized, and shall be made binding upon any and all successors in interest to the parties thereto.

6. At the time of the transfer herein authorized, the F. D. Cornell Company shall deliver to Hermosa Beach Water Corporation an indemnity bond executed by a surety company and approved by this Commission, in the sum of not less than \$10,000 for the indemnification of the Hermosa Beach Water Corporation for any diminution or contamination of its water supply or damage to its property, or any part thereof, used and useful in the performance of its duties as a public utility water corporation which may result from any act or operation of the F. D. Cornell Company, or its successors in interest, in their use of the property herein authorized to be conveyed.

7. Within thirty (30) days after its execution, Hermosa Beach Water Corporation shall file with the Railroad Commission a certified copy of the deed or agreement under which said transfer is made.

8. The authority herein granted shall apply only to such conveyance as shall have been made on or before August 1, 1922.

9. The consideration given for the transfer of said public utility rights shall not be urged before this Commission, or any other public body, as a finding of the value of said rights for any purpose other than the transfer herein authorized.

10. That within ten (10) days from the date on which Hermosa Beach Water Corporation actually relinquishes control and possession of the properties herein authorized, said Hermosa Beach Water Corporation shall file with the Railroad Commission a certified statement indicating the date on which such control was relinquished.

Dated at San Francisco, California, this twenty-ninth day of May, 1922.

DECISION No. 10516.

IN THE MATTER OF THE APPLICATION OF H. P. HARRALSON THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE CONSTRUCTION AND OPERATION OF A TELEPHONE LINE FROM DINUBA TO GENERAL GRANT NATIONAL PARK.

Application No. 7627.

IN THE MATTER OF THE APPLICATION OF THE REEDLEY TELEPHONE COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AUTHORIZING IT TO EXTEND ITS REEDLEY-SQUAW VALLEY-DUNLAP-PINEHURST-CEDARBROOK AND CEDARS LINE TO GENERAL GRANT NATIONAL PARK.

Application No. 7694.

Decided May 29, 1922.

Farnsworth, McClure and Burke, for Applicant Harralson.

A. Terkel, Manager, for Reedley Telephone Company.

F. L. McNally and *J. H. Newman*, for The Pacific Telephone and Telegraph Company.

J. J. Lushbaugh, for Fresno County Chamber of Commerce.

BY THE COMMISSION.

OPINION.

A public hearing was held by Examiner Westover at Fresno upon the above entitled applications to construct telephone lines to General Grant National Park; that in the first application, No. 7627, to be constructed from Dinuba, and that in the second application, No. 7694, contemplating an extension of about five miles from The Cedars, the terminus of the line at present operated by Reedley Telephone Company.

The proposed route of the Harralson line is easterly from Dinuba through Sultana and Orosi; northeasterly to Drum Valley, Miramonte, Pinehurst, Wilsonia and the vicinity of the administration buildings near the northeast corner of the park; with a branch line from Badger, joining the main line at a point near Pinehurst. During the hearing,

the proposed route was modified to go directly from Drum Valley to Miramonte, without serving Dunlap, which is the end of the line constructed by Reedley Telephone Company, the line between Dunlap and Pinchurst having been constructed by private parties and turned over to the Reedley company for operation.

The only testimony presented concerning need for service related to the territory of Miramonte and Pinchurst, both served by Reedley Telephone Company; Badger, which has about five families; Drum Valley, in which there are about twelve families; the vicinity of the administration buildings in the park; and Wilsonia, a summer colony about one mile to the south, in which about 200 lots or camp sites have been sold. The principal testimony offered concerned the need for service to and from the park, including Wilsonia. It appears from the testimony that there is not sufficient business to justify the operation of two lines, and that the present line would lose revenue if a line were authorized to compete with it in any part of its territory and that the people in the park wishing to communicate with Dinuba can do so through the Reedley exchange, which is distant from Dinuba about five miles.

It appears from the evidence that Reedley Telephone Company originally planned to extend its lines into the park at about the time its system was taken over by the government for operation, and that by Decision No. 10056 of February 2, 1922, upon Application No. 6287 the company was authorized by the Commission to issue and sell \$20,000 of its 7 per cent 20-year bonds, of the proceeds of which \$5,000 was designed to finance new construction and would be available for the purposes of the proposed extension.

By Decision No. 9890 of December 20, 1921, the Commission ordered the Reedley Company to reconstruct its Squaw Valley-Dunlap line to meet required standards of construction, and to maintain its lines and provide lines connected with it which had been ordered reconstructed to meet certain required standards. This reconstruction is nearly completed.

ORDER.

A public hearing having been held upon the above entitled applications, the matters being submitted, and now ready for decision:

The Railroad Commission hereby declares that public convenience and necessity do not require construction by H. P. Harralson of a telephone line between Dinuba and General Grant National Park, as described in the above entitled Application No. 7627.

It is hereby ordered, that the application of H. P. Harralson be and it is hereby denied.

The Railroad Commission hereby further declares that public convenience and necessity require the extension to Wilsonia and the administration headquarters in General Grant National Park by Reedley Telephone Company of the line now operated by it between Dinuba and The Cedars.

It is hereby further ordered, that the application of Reedley Telephone Company be and it is hereby granted, provided that Reedley Telephone Company shall commence actual construction of the extension herein authorized to be made not later than twenty days from the date of the order herein, and shall complete said construction not later than thirty days from the date of said order, unless for good cause shown the Railroad Commission may grant an extension of time for the commencement and/or completion of said extension.

Dated at San Francisco, California, this twenty-ninth day of May, 1922.

DECISION No. 10520.

IN THE MATTER OF THE APPLICATION OF MRS. G. GUERRA, OWNER OF CAMBRIA TELEPHONE COMPANY, FOR PERMISSION TO INCREASE CERTAIN RATES AND CHARGES FOR TELEPHONE SERVICE NOW IN EFFECT AND TO ESTABLISH RULES AND REGULATIONS GOVERNING THE SAME.

Application No. 6997.

Decided May 31, 1922.

Albert Nelson, for Applicant.
A. Filiponi and *G. Salmini*, for Protestants.

BY THE COMMISSION.

OPINION.

Mrs. G. Guerra, applicant in this proceeding, is sole owner of a small telephone system operating as a public utility in Cambria, San Luis Obispo County, and serving about ninety-five (95) patrons at the time of this proceeding. Connection with the long distance lines of The Pacific Telephone and Telegraph Company is maintained to provide service to and from outside points.

In a former proceeding, Application No. 6016, the applicant asked for an order permitting entire withdrawal from public service. At the hearing on said application, counsel for applicant asked for and was granted permission to amend the petition by asking, in the event of a denial, that the rates be increased sufficiently to justify the service. The petition was denied in Decision No. 9100 of this Commission. Subsequently the present application was filed.

This application sets forth that the present rates for service yield a revenue of ninety-seven dollars per month, to which should be added

twenty dollars per month as the amount of the commission received from The Pacific Telephone and Telegraph Company for tolls originating at the Cambria Exchange. The various items of expense are enumerated, totaling one hundred eighty-six dollars (\$186) per month, including depreciation. No appraisal of the property was submitted, but a valuation of two thousand dollars (\$2,000), based on its cost to applicant, was claimed therefor. An engineer from the Commission's engineering department inspected the property and made an inventory and appraisal of the plant and equipment in use at present.

Cambria is a small village near the ocean, surrounded by hilly country, adapted only for dairying, which is its principal use. Several quicksilver mines formerly added to the prosperity of the village, but these are all shut down at the present time. Of the total number of subscribers to the Cambria exchange, approximately seventy-five per cent are in the country, on large ranches, and the remainder in or near the village. Service is also rendered over their own line to the United States Government at Piedras Blancas Light House, and also over another private line to several telephones on the W. R. Hearst ranch at San Simeon.

The service to subscribers on these ranches, as well as to those in the village, is rendered over grounded magneto lines, suspended for the most part on slats nailed to fence posts, and, in the mountains, on brackets nailed to trees. While there are over ninety miles of wire in the system, there are only about one hundred fifty poles, the remainder of the system being fence or tree construction.

A hearing was held before Examiner Satterwhite at San Luis Obispo. At this hearing two protestants appeared, who testified that the service was very inefficient, owing to the poor maintenance of the lines, but stating further that if the system is put into such shape that dependable service can be given, they believed an increase in rates would be fully justified and they would offer no objection. At the hearing on Application No. 6016, previously referred to, which was held in Cambria, about twenty of applicant's patrons appeared in protest against withdrawal of service, but all signified their willingness to pay increased rates if necessary. The inspection of the system by the Commission's engineer revealed the fact that the lines are in poor condition, grounded in many places, and should be thoroughly inspected and repaired where necessary before any increase in rates should be allowed, and the present order will so specify.

It was also shown that the sums set out in the application as expenses were not actual expenditures but were purely estimates, with the exception of the items of rent and operators' wages. Complete records of the moneys paid out have not been kept, therefore it was necessary to

make estimates of the amounts which it would be necessary to expend in order to maintain and operate the system. Applicant testified that a reasonable amount for such expenses would be \$207.06 per month, without an allowance for depreciation. This amount is approximately \$46 more than the amount claimed in the application. A similar estimate, made by the Commission's engineer, called for an expenditure of \$129 per month.

Counsel for applicant stated that he was willing to accept the latter estimate, with the exception of the item of labor used in maintenance. Applicant had estimated \$100 per month for this item, in comparison with \$250 per year estimated by the Commission's engineer. Counsel referred to the testimony introduced at the previous hearing in which one Mr. Warren, a former owner of the system, testified that its maintenance would require one hundred days' time per year, at \$5 per day, as against approximately eighty-four days at \$3 per day estimated by the engineer. Upon further investigation it appears that Mr. Warren estimated \$4 per day for a man and \$1 for a horse in his sum of \$5. Further testimony showed that common labor is at present receiving approximately \$100 per month in the vicinity of Cambria. We believe the engineer's estimate should properly be increased to a rate of \$4 per day, or an addition of \$84 per year. Accurate records should be kept of the time spent and labor done in maintenance of these lines in order that at any future time, if necessary, it may be properly determined whether or not the amount allowed is adequate for the maintenance of the system.

Applicant's present rates for service are \$1 per month for residence party line service and \$1.50 per month for business party line service. Twelve subscribers receive service for 50 cents per month and two receive service for 75 cents per month on account of owning their own instruments and supplying their own batteries.

There are three main line telephones at various rates, one residence service being charged \$1.50 per month, one business service \$1.50 per month, and another business \$2 per month. Two doctors each receive a special service for night calls. Applicant's witness testified that no charge was made for this service, but he also testified that he was not familiar with the books (subscribers' ledger) in which the accounts are kept. Investigation by the Commission's engineer showed that a charge of \$2 per month was being made for this service.

Applicant asked that the Commission authorize an increase of rates and charges sufficient to pay the cost of said service, together with a reasonable return upon the investment, and that said rates be not less than \$3.50 per month for each telephone. Counsel, at the hearing, stated that the rate asked for had not been derived by any study or analysis of the income and expenses, and asked for and was granted

permission to amend the application by asking for whatever rate this Commission might decide to be reasonable.

Applicant testified that the revenue during 1921 was \$1,506.17, subscribers' service revenue being \$1,078.50 and toll commissions \$427.67. This was approximately the same amount that was estimated by the Commission's engineer. Investigation at the time of the hearing, however, showed that the percentage of commission paid to applicant by The Pacific Telephone and Telegraph Company had been increased during the latter part of last year, which change may reasonably be expected to increase the company's income \$140 during the present year. The revenue from subscribers' stations may not be expected to increase—in fact, applicant had 122 subscribers in 1917 and 110 in 1918, as compared with 97 as of the date of valuation, August 1, 1921.

The property of the applicant was valued by the Commission's engineering department at \$4,331 on an historical basis as of August 1, 1921. This was based on the known costs of similar construction elsewhere, as the applicant had no record of costs either of material or labor. As referred to before, fourteen subscribers receive service at a reduced rate on account of the fact that they own their own instruments. In order that a uniform rate may be established, all the facilities should be owned and maintained by the utility. This may be accomplished through purchase from the subscribers who now own their own instruments, or by the substitution of an instrument owned by the utility for the one which is privately owned. It is estimated that, when this change is made, the investment will have been increased to \$4,500.

Making the corrections in operating expenses and in toll revenues before mentioned, it will be seen that the present rates are not sufficient to provide for maintenance, operation and depreciation. It will be further seen that the rates hereinafter suggested should provide a net revenue of \$355, or a return of 7.8 per cent, on an investment of \$4,500. This is as follows:

	Present Rates	Suggested Rates
Subscribers station revenues-----	\$1,116 00	\$1,806 00
Toll commissions -----	540 00	540 00
	<hr/> \$1,656 00	<hr/> \$2,346 00
Operating expenses -----	\$1,499 00	\$1,499 00
Depreciation -----	320 00	320 00
Uncollectible -----	50 00	50 00
Taxes -----	80 00	122 00
	<hr/> \$1,949 00	<hr/> \$1,991 00
Deficit -----	\$293 00	
Net revenue -----		\$355 00

The number of subscribers per suburban line averages ten. Two lines, however, serve twelve subscribers each and one line serves thirteen subscribers. Although this number is in excess of the number usually permitted on such lines, nevertheless because the exchange is small, and as no complaint was made as to an excessive number of subscribers per line, and also after giving consideration to the character of the territory covered, we shall not require the company to reduce this number in these cases, although it would undoubtedly improve the service if this were done.

The present hours of service on week days are 8.00 a.m. to 12 noon, 1.00 p.m. to 5.30 p.m. and 6.30 p.m. to 7.30 p.m., and on Sundays from 9.00 a.m. to 12.00 noon. No complaint was introduced by any one at the hearing as to these hours. Investigation, however, revealed the fact that other hours might be more convenient for many subscribers, particularly with reference to the closing of the office in the middle of the day at some other time than from 12.00 noon until 1.00 p.m. We suggest that the applicant confer with her subscribers in order to ascertain if a change in the hours of service, without increasing their number, would increase the utility of the service, and that she communicate the results of this investigation to this Commission for whatever further action, if any, may seem to be advisable.

Applicant's present method of accounting for rentals and tolls due has resulted in a large accumulation of unpaid balances. For her own protection, she should have a more accurate form of accounting and her bills should be mailed to each subscriber promptly on the first of each month.

Applicant has no rules or regulations on file with this Commission at the present time, governing the conduct of her business. The application suggests several rules which it is desired to put into effect. The suggested rules contain several modifications of the rules heretofore prescribed by this Commission in similar cases. While certain of the proposed modifications may seem to be justifiable, on account of the peculiar conditions under which the utility operates, we do not believe it is necessary or expedient to make any deviations in this case from the rules heretofore established by the Commission for general use.

ORDER.

Mrs. G. Guerra, owner of Cambria Telephone Company, having filed with the Commission her application for an increase of rates, a hearing having been held, the matter being submitted and ready for a decision;

It is hereby ordered, that Mrs. G. Guerra, operating under the name and title of Cambria Telephone Company, is hereby authorized to file

with the Commission and place in effect the following schedule of rates:

Business :	Wall set	Desk set
One-party line, per month-----	\$2 50	\$2 75
Ten-party line, per month-----	2 00	2 25
Extensions, per month-----	1 00	1 00
Residence :		
One-party line, per month-----	\$2 00	\$2 25
Ten-party line, per month-----	1 50	1 75
Extensions, per month-----	1 00	1 00

Provided, that the authority herein granted shall not become effective until petitioner shall have submitted to this Commission satisfactory evidence that the lines and instruments of the present system have been so rebuilt or repaired that efficient and satisfactory telephone service is being provided; nor until this Commission shall have issued its supplemental order herein setting forth that such repairs or replacements have been completed.

Thereafter, at all times, adequate and efficient telephone service shall be maintained during such hours of each day as may be filed with this Commission as the regular hours of service.

It is hereby further ordered, that Mrs. G. Guerra is hereby authorized to file with the Commission, under Decision No. 2879, and to place in effect, the following rules and regulations:

RULE No. 9.

All bills against subscribers receiving service at flat monthly rates may be rendered monthly in advance and may contain a notice that bills are due and payable when received, and, if not paid within fifteen days of receipt by the subscriber, service is subject to discontinuance without further notice.

RULE No. 14.

A. A charge of \$3.50 for each of the following listed units of facilities upon application for installation shall be:

1. Individual or party line service, each station----- \$3 50
2. Each extension station----- 1 50

B. A charge of \$1.50 shall be made for the establishment of service by use of instrumentalities in place on subscribers' premises; if at subscribers' request a change is made in location or type of facilities, the charges for moves and changes are applicable to the change, provided the total charges shall not exceed the charges for the initial establishment of service, as specified in paragraph A.

C. The service connection charge shall be applicable to all service except farmer line service.

D. A charge of \$1 shall be made for restoration of service temporarily disconnected for nonpayment, subscriber's temporary absence, or for any other reason for which the subscriber is responsible except a change in class of service or location of facilities.

Also, the following rule:

A charge for changes of location of telephone equipment or wiring on the subscribers' premises shall be:

- (a) For moving a telephone set from one location to another on the same premises ----- \$3 00
- (b) For moving any other equipment or wiring from one location to another on the same premises, a charge based on the cost of labor and material.

The foregoing opinion and order is hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirty-first day of May, 1922.

DECISION No. 10525

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN WHARF AND WAREHOUSE COMPANY FOR AN ORDER AUTHORIZING ISSUANCE OF CAPITAL STOCK AND AUTHORIZING THE PURCHASE OF REAL AND PERSONAL PROPERTY FROM DICKINSON-NELSON COMPANY, A PUBLIC UTILITY.

Application No. 6707.

Decided May 31, 1922.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

The Railroad Commission by Decision No. 8890, dated April 20, 1921, as amended, authorized San Joaquin Wharf and Warehouse Company to issue and sell, on or before April 1, 1922, \$200,000 of common capital stock for the purpose of buying warehouse properties from the Dickinson-Nelson Company, constructing a warehouse on property leased from The Western Pacific Railroad Company, and provide itself with working capital.

Applicant reports that it has sold \$41,700 of the stock, netting \$35,510, of which \$15,510 is being used as working capital and \$20,000 was paid to the Dickinson-Nelson Company.

Applicant further reports that it will not construct at this time a warehouse on the properties leased from The Western Pacific Railroad Company.

Applicant asks the Commission to grant it additional time within which to sell \$80,000 of common capital stock for the purpose of making final payment on the Dickinson-Nelson Company properties. The Commission has considered applicant's request and is of the opinion that it should be granted, as herein provided.

It is therefore ordered, that the order in Decision No. 8890, dated April 20, 1921, as amended, be and it is hereby modified so as to permit San Joaquin Wharf and Warehouse Company to issue and sell \$80,000 of its common capital stock on or before October 1, 1922, at not less than par, less a commission of not exceeding 15 per cent, and to use the proceeds to pay, in part, the cost of the properties being acquired from the Dickinson-Nelson Company, to which reference is made in this application.

It is hereby further ordered, that the order in Decision No. 8890, dated April 20, 1921, as amended, shall remain in full force and effect, except as modified by this first supplemental order.

Dated at San Francisco, California, this thirty-first day of May, 1922.

DECISION No. 10533.

IN THE MATTER OF THE APPLICATION OF RUSSELL PECK FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AN AUTO TRUCK PARCEL SERVICE BETWEEN LOS ANGELES AND DUARTE, CALIFORNIA, AND POINTS CONTIGUOUS.

Application No. 7262.

Decided June 6, 1922.

H. N. Blair, for Applicants.

H. W. Kidd and Rex Hardy, for S. B. Cowan, San Fernando Haulage Company, Motor Transit Company, T. K. Vance, Rice Transportation Company, L. R. Kagarise, Walter Raisin and G. & W. Stage Company, Protestants.

A. E. Norrbaum, for Pacific Electric Railway Company, Protestant.

BY THE COMMISSION.

OPINION AND ORDER ON REHEARING.

The Commission having, under date of May 20, 1922, made its order herein setting aside decision heretofore made in this proceeding under date of March 21, 1922 (Decision No. 10213), and having granted rehearing on the matters considered in such decision, a further hearing on this application was conducted by Examiner Handford at Los Angeles, the matter was duly submitted and is now ready for decision.

Applicant amended the schedule of rates to be charged, the rules and regulations as regards free pick-up and delivery, also defined and requested that the parcels to be carried under the proposed certificate to be such that would not weigh in excess of fifty pounds and to be of such character as accepted by the Post Office Department under its regulations for the transportation of parcels post with the exception that the measurement rule of the Post Office Department should be disregarded and the weight limit of fifty pounds substituted therefor.

Witnesses for applicant, in charge of shipments made by the J. W. Robinson Company and J. M. Hale's Dry Goods Store, both large department stores in Los Angeles, testified as to the use of applicant's facilities on existing parcel delivery lines and that the service rendered by applicant on such existing lines had been satisfactory in the delivery of merchandise to the patrons of such department stores. The schedule of rates, as originally proposed by applicant, provided for a grade scale based on the total volume of business transacted with any shipper during a particular month, result of such grade scale being that a lower

rate was accorded to patrons having a large volume of business, and in the application of such rate the volume of business received by applicant from his customers would include not only the line herein applied for but also other lines now operated by applicant to other points from the city of Los Angeles, and in addition there would be figured in the monthly amount of business the rates arising from local delivery system operated by applicant exclusively within the corporate limits of the city of Los Angeles. Upon the amendment by applicant of his proposed rates it was apparent that the favorable minimum rate which would have accrued to the patrons of applicant under the original proposal would no longer be available and that the minimum rate would be materially increased, and witnesses for applicant stated that under the conditions resulting from the amendment of the rate to a uniform and nondiscriminatory basis that the service of applicant would not be attractive over the route herein proposed and that their business would probably require to move either by parcel post or by the service of the American Railway Express.

In view of all the evidence in this proceeding, and the condition created by the amendment to the rate structure herein proposed, the Commission is of the opinion and hereby finds as a fact that there is no showing by applicant herein that would justify the granting of the application herein sought, and in the absence of such affirmative showing the application must be denied.

ORDER.

A further hearing having been held on the above entitled proceeding, the matter having been duly submitted and the Commission being fully advised, and basing its order on the finding of fact as appearing in the foregoing opinion;

It is hereby ordered, that this application be and the same hereby is denied.

Dated at San Francisco, California, this sixth day of June, 1922.

DECISION No. 10536.

IN THE MATTER OF THE APPLICATION OF BAY TRANSPORT COMPANY, A CORPORATION, FOR A PERMIT AUTHORIZING IT TO ISSUE SHARES OF ITS CAPITAL STOCK.

Application No. 7276.

Decided June 6, 1922.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Bay Transport Company, in a supplemental petition filed in the above entitled matter on May 25, 1922, asks permission to issue, at par, \$55,000

of its common capital stock for the purpose of reimbursing its treasury on account of earnings used to acquire property and pay indebtedness.

The Commission, by Decision No. 9812, dated November 26, 1921, as amended by Decision No. 10197, dated March 15, 1922, in the above entitled matter, authorized applicant to issue \$115,500 of stock and to assume the payment of \$207,562.93 of indebtedness in order to acquire properties and to reimburse the treasury on account of surplus earnings used prior to December 31, 1921, to pay indebtedness. It appears that applicant issued \$114,000 of stock and assumed the payment of \$201,141.02 of indebtedness.

The record shows that from January 1, 1922, to April 30, 1922, applicant's net earnings amounted to \$56,005.31. Of this amount \$32,324.04 was used to pay indebtedness, thereby increasing the stockholders' equity. The sum of \$23,681.27 represents cash, notes and accounts receivable. Because its surplus earnings were used to pay indebtedness and to increase its assets, applicant now asks permission to issue \$55,000 of stock.

The Railroad Commission has considered applicant's request and believes that it should be granted as herein provided; therefore,

It is hereby ordered, that the order in Decision No. 9812, dated November 26, 1921, as amended, be and it is hereby modified so as to permit Bay Transport Company to issue an additional \$55,000 of its common capital stock, at par, on or before September 30, 1922, to reimburse its treasury on account of surplus earnings used to pay indebtedness, and to acquire properties; provided

That Bay Transport Company will keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

It is hereby further ordered, that the order in Decision No. 9812, dated November 26, 1921, as amended, be and it is hereby modified so as to permit applicant to issue, sell and deliver, on or before September 30, 1922, the stock the issue of which is authorized by said order as amended.

It is hereby further ordered, that the order in Decision No. 9812, dated November 26, 1921, as amended, shall remain in full force and effect, except as modified by this second supplemental order.

Dated at San Francisco, California, this sixth day of June, 1922.

DECISION No. 10541.

IN THE MATTER OF THE APPLICATION OF WESTERN WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUANCE OF THREE HUNDRED THOUSAND DOLLARS PAR VALUE OF ITS COMMON CAPITAL STOCK.

Application No. 7614.

Decided June 7, 1922.

Chickering and Gregory, by Allen L. Chickering, for Applicant.

BENEDICT, Commissioner.

OPINION.

Western Water Company asks the Railroad Commission to make an order authorizing it to issue \$300,000 of its common capital stock to reimburse its treasury on account of earnings expended for additions and betterments and to distribute such stock as a dividend to its stockholders.

Applicant has an authorized stock issue of \$1,000,000. Of this amount, \$400,000 is reported as issued and was outstanding on March 31, 1922. Applicant has no bonded indebtedness. Its notes payable are reported at \$50,000 and its accounts payable at \$46,869.17.

As of March 31, 1922, applicant in its Exhibit No. 1 reports assets and liabilities as follows:

<i>Assets—</i>	
Fixed capital	\$1,101,826 44
Cash	34,672 41
Accounts receivable	57,390 54
Other current assets.....	113,905 38
Total assets	\$1,307,794 77
<i>Liabilities—</i>	
Stock outstanding	\$400,000 00
Notes payable	50,000 00
Accounts payable	46,869 17
Guaranteed deposits	4,000 00
Accrued interest not due.....	704 90
Reserve for accrued depreciation.....	423,622 61
Corporate surplus	382,538 09
Total liabilities.....	\$1,307,794 77

The corporate surplus includes \$5,000 representing appreciation in the value of the assets.

As of March 31, 1922, applicant reports a reserve for accrued depreciation of \$423,622.61 and surplus earnings unappropriated of \$377,538.09. All of the moneys represented by the reserve for accrued depreciation and by the unappropriated surplus are invested in applicant's properties. The amount of stock which applicant intends to issue is less than its unappropriated surplus and will not result in the capitalization of any properties acquired or constructed through the

investment of moneys represented by the reserve for accrued depreciation. The evidence shows that applicant has expended from earnings for plant additions and betterments an amount in excess of \$300,000. The Commission may, therefore, properly authorize applicant to issue stock for the purpose of reimbursing its treasury.

I herewith submit the following form of order:

ORDER.

Western Water Company having applied to the Railroad Commission for permission to issue \$300,000 of its common capital stock, a public hearing having been held, and the Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of stock is reasonably required by applicant and that this application should be granted subject to the conditions of this order;

It is hereby ordered, that Western Water Company be and it is hereby authorized to issue for the purpose of reimbursing its treasury on account of surplus earnings expended for additions and betterments, \$300,000 of its common capital stock, such stock to be issued at not less than its par value and distributed to its present stockholders according to law.

The authority herein granted is subject to further conditions as follows:

1. Western Water Company shall keep such record of the issue and distribution of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will apply only to such stock as may be issued and delivered on or before November 1, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventh day of June, 1922.

DECISION No. 10543.

IN THE MATTER OF THE APPLICATION OF SANTA MONICA BAY HOME TELEPHONE COMPANY FOR AN ORDER AUTHORIZING THE SALE OF FIFTY THOUSAND DOLLARS PAR VALUE OF ITS FIRST MORTGAGE BONDS, THE SALE OF TWO HUNDRED EIGHTY SHARES OF ITS PREFERRED STOCK AND THE ISSUANCE OF PROMISSORY NOTES OF THE TOTAL FACE VALUE OF TEN THOUSAND DOLLARS.

Application No. 7869.

Decided June 8, 1922.

SECURITIES—NOTES—WHEN AUTHORIZATION NOT REQUIRED.—As applicant does not propose to issue notes for a term of more than one year, authority therefor is held not required and this part of application is dismissed.

SECURITIES—STOCK AND BONDS—MINIMUM PRICE ADVANCED.—In view of earnings in excess of interest and dividends in 1921, applicant's minimum selling price for preferred stock is placed at \$90 instead of \$85, and bonds authorized at \$83.50 instead of \$80, as requested.

L. C. Torrance, for Applicant.

ROWELL, Commissioner.

OPINION.

Santa Monica Bay Home Telephone Company asks permission to issue and sell \$28,000 of its preferred stock and \$50,000 of its first mortgage 5 per cent bonds for the purpose of paying for new equipment and telephone installations.

The company also asks permission to borrow, if necessary, a sum not exceeding \$10,000 to pay for part of such equipment and installations, pending the sale of its stock and bonds. It is of record that the company will not issue any note for a term of more than one year after date. A public utility may, without permission from the Commission, issue a note payable within one year after date for the purpose of securing funds to acquire and construct new properties. Applicant's request to borrow not exceeding \$10,000 will therefore be dismissed without prejudice.

Applicant reports that it has incurred or will have to incur during this year an expenditure of \$101,080.66 on capital account. This amount is segregated by applicant as follows:

Additions to capital account, four months to April 30.....	\$20,345 66
Automatic equipment ordered.....	11,150 00
500 instruments, estimated requirements.....	7,000 00
Installing same, including line material.....	6,000 00
Cable runways, including labor.....	1,500 00
Switchboard cable and installing.....	3,500 00
Installing three new units automatic equipment connector boards and moving exchange.....	4,200 00
Power equipment for new exchange.....	6,300 00
3,300 feet 4-duet underground.....	5,508 00
Aerial and underground cable.....	11,410 00
Building and grounds for exchange.....	15,000 00
All other material and labor.....	5,000 00
Payment on mortgage 160 Pier Avenue purchase.....	4,167 00
Total	\$101,080 66

The record shows that applicant finds it necessary to enlarge its exchange facilities. It has ordered new automatic equipment and believes that it is unwise for it to install such equipment in the building in which its Santa Monica Exchange equipment is located. This building is not centrally situated, nor is it suitable for the installation of the new equipment. It has therefore been concluded to construct a new exchange building more advantageously located and better suited to the needs of the company.

For the three years ending December 31, 1921, applicant reports revenues, operating expenses and fixed charges as follows:

	1921	1920	1919
Telephone operating revenues.....	\$155,591 55	\$123,265 28	\$87,989 00
Telephone operating expenses.....	96,294 87	93,928 76	68,294 48
Net revenue telephone operations.....	\$57,296 68	\$29,336 52	\$19,695 12
Uncollectible operating revenues.....	\$1,004 61	\$2,712 77	\$3,760 56
Taxes assignable to operations.....	10,123 53	6,000 00	5,325 00
Deductions from net operating revenues	\$11,218 14	\$8,712 77	\$9,085 56
Operating income	\$46,078 54	\$20,623 75	\$10,609 56
Nonoperating revenues	9,525 80	10,162 74	4,955 57
Gross income	\$55,604 34	\$30,786 49	\$15,575 13
Deductions—			
Rent deductions for telephone offices.....	\$2,075 00	\$1,960 00	\$3,062 65
Rent deductions for conduits, poles and other supplies.....		421 43	
Rent deductions for instruments and equipment			2,512 51
Interest on funded debt.....	20,825 00	19,465 10	16,200 00
Other interest deductions.....	876 61	541 11	686 42
Amortization of debt, discount and expense	2,093 11	955 56	1,513 89
Miscellaneous deductions		134 63	139 05
Total deductions	\$25,869 72	\$23,477 83	\$24,414 52
Net income	\$29,734 62	\$7,308 66	*\$8,839 39
*Deficit.			

The operating expenses for 1921 include an allowance of \$31,040.26 for depreciation of plant and equipment, those for 1920 an allowance of \$18,700 and those for 1919 an allowance of \$13,111.38.

Applicant has an authorized stock issue of \$500,000, divided into \$250,000 of common and \$250,000 of preferred. The common stock has been issued and deposited in escrow pursuant to an order of this Commission. Of the preferred stock, \$222,000 is outstanding, leaving \$28,000 unissued. During 1921 applicant has paid 8 per cent dividend on the preferred stock. Applicant's president testified that it is the intention of the management to pay the same rate of dividend during 1922.

Applicant's authorized bonded debt is \$500,000, of which \$421,000 is outstanding. The bonds bear 5 per cent interest and mature October 15, 1937.

Applicant in its Exhibit "2" shows that it has a tentative offer of 80 for its bonds. Its president suggests that it be permitted to sell the stock at not less than \$85 per share. If the bonds are issued, applicant will have outstanding \$471,000 of bonds, the interest on which will be \$23,550. Applicant's income available for the payment of interest during 1921 was approximately two and one-half times the annual interest charge. The earnings available for the payment of dividends on preferred stock were equivalent to about one and one-half times such dividend requirements. I have considered the suggested minimum selling prices of applicant's securities and believe that it should be able, in view of the record in this case, to get at least 83½ and accrued interest for its bonds, and \$90 a share and accrued dividends for its stock.

I herewith submit the following form of order:

ORDER.

Santa Monica Bay Home Telephone Company having applied to the Railroad Commission for permission to issue \$28,000 par value of preferred stock, \$50,000 of first mortgage bonds and \$10,000 of notes, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of the stock and bonds herein authorized is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Santa Monica Bay Home Telephone Company be and it is hereby authorized to issue \$28,000 par value of its preferred stock and \$50,000 of its first mortgage 5 per cent bonds due October 15, 1937.

It is hereby further ordered, that this application, in so far as it involves the issue of \$10,000 of notes, be and it is hereby dismissed without prejudice.

The authority herein granted is subject to the following conditions:

1. The stock herein authorized to be issued shall be sold by applicant for not less than \$90 per share and accrued dividends net to the company, and the bonds at not less than 83½ per cent of their face value and accrued interest net to the company.
2. The proceeds realized from the sale of the stock and bonds shall be used by applicant to pay in whole or in part the cost of acquiring and installing the telephone equipment and properties referred to in the foregoing opinion and in this application.

3. Santa Monica Bay Home Telephone Company shall keep such record of the issue and sale of the stock and bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted will not become effective until applicant has paid the fee prescribed in section 57 of the Public Utilities Act, which fee amounts to \$50.

5. The authority herein granted will apply only to such stock and bonds as may be issued, sold and delivered on or before December 31, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eighth day of June, 1922.

DECISION No. 10544.

IN THE MATTER OF THE APPLICATION OF COAST COUNTIES GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION AUTHORIZING SAID COMPANY TO ISSUE AND SELL TWO THOUSAND FIVE HUNDRED SHARES OF ITS FIRST PREFERRED CAPITAL STOCK AT EIGHTY-FIVE PER CENT OF THE PAR VALUE THEREOF.

Application No. 7848.

Decided June 8, 1922.

SECURITIES—PREFERRED STOCK—MINIMUM PRICE—COMMISSION.—Applicant authorized to sell \$250,000 of first preferred stock at \$81.60 net per share. Applicant's request to pay a 5 per cent commission on the stock at \$85 was reduced to 4 per cent.

Leo H. Sasman, for Applicant.

BENEDICT, Commissioner.

OPINION.

Coast Counties Gas and Electric Company asks permission to issue and sell \$250,000 of its 6 per cent cumulative first preferred stock and to use the proceeds from the sale of the first \$100,000 of stock sold to reimburse its treasury on account of expenditures made from earnings for additions and betterments, and use the proceeds from the sale of the remaining \$150,000 of stock to retire, so far as possible, on or before maturity, \$150,000 of debentures due on January 1, 1924.

The company plans to sell its stock at 85, but asks permission to pay a selling commission equivalent to not more than 5 per cent of the proceeds.

Applicant has an authorized stock issue of \$4,000,000 divided into \$2,000,000 of common stock, \$1,000,000 of original preferred and \$1,000,000 of first preferred. The first preferred stock is entitled to cumulative dividends at the rate of 6 per cent per annum on the par value thereof before any dividends are paid on the original preferred or common stock and is preferred as to assets before original preferred or common stock.

As of March 31, 1922, the company reports outstanding \$1,000,000 of common stock, \$1,000,000 of original preferred and \$280,000 of first preferred stock. As of the same date it reports funded debt outstanding in the hands of the public at \$1,408,000, consisting of the following:

Coast Counties Light and Power Company 5's, due 1946-----	\$845,000 00
Big Creek Light and Power Company 4's, due 1947-----	274,000 00
San Benito Light and Power Company 6's, due 1950-----	139,000 00
Coast Counties Gas and Electric Company 6's, debentures-----	150,000 00

Applicant reports that subsequent to December 31, 1914, and prior to January 1, 1922, it expended from earnings for additions and betterments, the sum of \$547,063.20. Of this amount \$154,752.50 has been financed with proceeds obtained from the sale of first preferred stock heretofore authorized by the Commission, leaving a balance of \$392,310.70 which applicant reports has been expended from earnings for capital purposes up to December 31, 1921, and for which it has not been reimbursed by the sale of stock, bonds, debentures or other securities.

The company asks permission to use the proceeds from the sale of \$100,000 of its stock to finance, in part, the cost of these capital expenditures. The testimony of S. Waldo Coleman, applicant's president, shows that the company's corporate surplus on December 31, 1921, aggregated \$259,331.14, and that such surplus has been invested in its plant and business. Because of such investment applicant asks permission to reimburse its treasury with proceeds from the sale of stock.

Pursuant to Decision No. 1198, dated January 15, 1914 (Vol. 4, Opinions and Orders of the Railroad Commission of California, page 21), applicant issued \$150,000 of debentures. These debentures are dated January 1, 1914; mature January 1, 1924; bear interest at 6 per cent per annum and are callable at 101 and accrued interest on the first day of January or July of any year before maturity. To secure funds to pay all or any part of these debentures applicant now asks permission to issue \$150,000 of first preferred stock.

The testimony herein indicates that the sale of applicant's stock may extend over a considerable period. It is the company's intention that when and as the \$150,000 of stock is sold the proceeds will be used to pay the debentures if obtainable. If no debentures can be obtained, at

par or less, applicant proposes to place the proceeds in a special fund until the maturity of the debentures on January 1, 1924.

It is proposed to offer the stock for sale at 85 per cent of par value. Applicant reports that it may be obliged to expend, in the sale of its stock, a commission of not exceeding 5 per cent of the proceeds. The order herein will permit the payment of a commission of not exceeding 4 per cent of the proceeds realized from the sale of each share of stock. Under the order contained herein, applicant must realize at least \$81.60 net per share for each share of stock sold.

I herewith submit the following form of order:

ORDER.

Coast Counties Gas and Electric Company having applied to the Railroad Commission for permission to issue and sell \$250,000 of its first preferred stock, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue and sale is reasonably required for the purposes specified in this order, and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Coast Counties Gas and Electric Company be and it is hereby authorized to issue 2500 shares (\$250,000) of its first preferred stock.

The authority herein granted is subject to the following conditions:

1. Applicant shall sell the stock for not less than \$85 per share.
2. Applicant may use, if necessary, not exceeding 4 per cent of the proceeds realized from the sale of each share of stock to pay commissions and expenses incident to the sale of each share of such stock. Each share of stock must net applicant at least \$81.60.
3. Applicant may use the proceeds from the sale of \$100,000 of stock, not expended for commissions as herein permitted, to reimburse its treasury and to finance, in part, the cost of additions and betterments referred to in the foregoing opinion and in this application.
4. Applicant may use the proceeds from the sale of the remaining \$150,000 of stock, not expended for commissions as herein permitted, to retire so far as possible the \$150,000 of debentures that become due on January 1, 1924.
5. Applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.
6. The authority herein granted will apply only to such stock as may be issued, sold and delivered on or before December 31, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eighth day of June, 1922.

DECISION No. 10563.

IN THE MATTER OF THE APPLICATION OF L. A. NARES, FOR AUTHORITY TO SELL CERTAIN PROPERTY TO LATON WATER COMPANY, A CORPORATION, AND OF LATON WATER COMPANY, A CORPORATION, TO BUY SAID PROPERTY.

Application No. 7643.
Decided June 8, 1922.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Laton Water Company, by Decision No. 10461, dated May 16, 1922, was authorized to acquire certain water properties and business located in Laton and to issue and sell for cash at not less than par, forty-four shares of its capital stock of the aggregate par value of \$2,200. The order of the Commission provides, in part, as follows:

The proceeds derived from the sale of said stock shall be used for the purpose of purchasing said system and for making additions and betterments thereto, but said proceeds shall not be expended until authorized by supplemental order herein, before obtaining which said Laton Water Company shall submit a detailed statement of additions, betterments or improvements proposed to be made, with the estimated cost thereof; except that said company may pay from said proceeds the installment upon said plant to become due October 1, 1922, together with the interest then accrued under its purchase contract.

The company, on May 24, 1922, filed in this proceeding a statement showing that it has expended in the acquisition of its plant and properties and for additions and betterments, the sum of \$600.87. To finance these expenditures, it asks permission to withdraw \$600.87 obtained from the sale of its stock.

The Commission has given consideration to applicant's request and believes that it should be granted as herein provided; therefore,

It is hereby ordered, that the order in Decision No. 10461, dated May 16, 1922, be and it is hereby modified so as to permit Laton Water Company to withdraw \$600.87 of the proceeds obtained from the sale of the stock authorized by the order in said decision to finance the cost of the additions and betterments described in the statement filed in this proceeding on May 24, 1922.

It is hereby further ordered, that the order in Decision No. 10461, dated May 16, 1922, shall remain in full force and effect, except as modified by this first supplemental order.

Dated at San Francisco, California, this eighth day of June, 1922.

DECISION No. 10564.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION TO ISSUE AND SELL FIFTY THOUSAND SHARES OF ITS SEVEN PER CENT CUMULATIVE PRIOR PREFERRED STOCK.

Application No. 7465.

Decided June 8, 1922.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

The Railroad Commission by Decision No. 9989, dated January 12, 1922, authorized San Joaquin Light and Power Corporation to issue and sell \$5,000,000 of its 7 per cent cumulative prior preferred stock. The order of the Commission, as amended by the order in Decision No. 10207, dated March 17, 1922, permits applicant to use the proceeds from the sale of \$2,939,101.18 of stock to finance capital expenditures made prior to November 30, 1921, to pay the \$400,000 of unifying and refunding mortgage bonds that matured March 1, 1922, and to pay current indebtedness incurred in connection with the acquisition of materials and supplies or to reimburse its treasury on account of earnings used to pay such current indebtedness. The remainder of the proceeds may be expended only for such purposes as the Commission will authorize in supplemental orders.

The company reports that during the month of April, 1922, it expended on capital account, the sum of \$624,936.35, as set forth in some detail in the statement of expenditures against estimates for the month of April, 1922, which was filed with the Commission on May 22, 1922. Applicant asks permission to use the proceeds from the sale of \$624,936.35 of its stock to finance, in part, these reported expenditures.

The Commission has considered applicant's request and believes that it should be granted, as herein provided; therefore,

It is hereby ordered, that the order in Decision No. 9989, dated January 12, 1922, as amended, be and it is hereby modified so as to permit San Joaquin Light and Power Corporation to use the proceeds from the sale of \$624,936.35 of the stock, the issue of which is authorized by the order in said decision, for the purpose of paying indebtedness incurred in making the expenditures referred to in this order or to reimburse its treasury on account of earnings used for such expenditures; provided,

That only such cost as is properly chargeable to capital account as defined by the Uniform Classification of Accounts prescribed by this Commission be financed with the proceeds from the sale of said \$624,936.35 of stock.

It is hereby further ordered, that the order in Decision No. 9989, dated January 12, 1922, as amended, shall remain in full force and effect, except as modified by this second supplemental order.

Dated at San Francisco, California, this eighth day of June, 1922.

DECISION No. 10566.

IN THE MATTER OF THE APPLICATION OF CONSOLIDATED MOTOR FREIGHT LINES, INCORPORATED, FOR ORDER AUTHORIZING ISSUE OF STOCK.

Application No. 7882.

Decided June 8, 1922.

SECURITIES—ISSUE OF STOCK—COPYRIGHT—GOOD WILL.—Applicant authorized to issue \$10,150 of stock to acquire properties and \$750 for organization services. The issue of \$3,500 as against copyrighted trade names and good will not allowed, the Commission holding that it is incumbent upon applicant to substantiate such claimed value with facts and figures. Mere allegation that the rights are valuable is held not sufficient.

J. B. McFarland, for Applicant.

BENEDICT, *Commissioner*.

OPINION.

Consolidated Motor Freight Lines, Incorporated, asks permission to issue 2730 shares of its capital stock of the par value of five dollars (\$5) per share for the purpose of acquiring properties from Lolita W. McFarland and issue 150 shares of stock to J. B. McFarland for services rendered in connection with the transfer of the properties.

Applicant was incorporated on or about May 15, 1921, with an authorized capital stock of \$75,000, divided into 15,000 shares of the par value of \$5 each, of which 2915 shares were reported outstanding on December 31, 1921. The company is engaged in the business of motor trucking, draying, expressing, freighting, packing, warehousing, storing and freight forwarding in all its branches in and about Oakland, Richmond, Haywards and San Leandro.

The company, if authorized by the Commission, has agreed to issue 2730 shares of stock to Lolita W. McFarland in payment for the motor trucking, drayage, transfer and storage business in San Francisco which she owns and operates under the fictitious names of Denman's General Delivery Transfer Company, D. G. & D. Transfer Company and Country Movers Exchange. It appears from the record that the business conducted by Lolita W. McFarland is not of a public nature. The application shows that the properties to be acquired by Consolidated Motor Freight Lines, Incorporated, consist of two 2-ton 1919 Autocar chassis, one 3-ton 1918 Giant chassis, one $\frac{3}{4}$ -ton 1913 rebuilt White chassis, one 1-ton 1920 Ford chassis, two light delivery

Fords, 1918 and 1919, and one Ford runabout, all with bodies, tops, sides, etc., together with equipment, furniture and fixtures, supplies, prepaid expense, cash, accounts receivable and good-will, all of an estimated value of \$17,210.66. This amount consists of the following:

Automobiles and trucks—depreciated value-----	\$8,100 00
Equipment for trucks—depreciated value-----	845 00
Furniture and fixtures-----	325 00
Office supplies-----	225 00
Proportion of prepaid taxes-----	526 25
Cash deposit on lease-----	750 00
Cash on hand as of March 31, 1922-----	121 15
Accounts receivable as of March 31, 1922-----	2,818 26
Copyrighted trade names and good-will of business, as more particularly described below-----	3,500 00
Total-----	\$17,210 66
Less debts to be assumed by applicant-----	3,551 43
Net-----	\$13,659 23

Included in the \$17,210.66 is an amount of \$3,500 claimed as the value of certain rights as follows:

Value of the exclusive right to use the valuable copyrighted trade names: Denman's General Delivery Transfer Company, D. G. & D. Transfer Company, and Country Movers Exchange; transfer of the above firm's customers, clientele, book accounts, valuable alliances with real estate firms, furniture houses, agents of buildings, and allowance for good-will, based upon reputation and standing, through long establishment, acquaintance with the trade, volume of business, value of earning power of enterprise based on certain return on the investment; value of lease at 690 Mission street, San Francisco, for offices which allow subletting and storage income; value of garage and warehouse facilities at 574 Bryant street, San Francisco.

When a corporation appears before this Commission with a request to issue stock for purposes similar to those for which the \$3,500 of stock is to be issued, or for any other purposes, it is incumbent upon applicant to substantiate such request with facts and figures. A mere allegation that the rights are valuable is not sufficient. The law does not impose upon this Commission any obligation to develop the facts for applicant. The record in this case does not, in my opinion, warrant the Commission in recognizing the \$3,500 in making an order authorizing the issue of stock. I, therefore, recommend that Consolidated Motor Freight Lines, Incorporated, be permitted to issue \$10,150 of stock (2030 shares) to acquire the properties of Lolita W. McFarland and \$750 of stock (150 shares) to J. B. McFarland for organization services. Inasmuch as the business of Lolita W. McFarland appears to be of a non-public utility nature, I believe that applicant should file with the Railroad Commission a stipulation agreeing that it, its successors and assigns, will never ask the Railroad Commission, or other public body having jurisdiction, to include in a rate base such an amount of stock as may be used to acquire non-public utility properties.

I herewith submit the following form of order:

ORDER.

Consolidated Motor Freight Lines, Incorporated, having applied to the Railroad Commission for permission to issue \$14,400 of its capital stock, a public hearing having been held and the Railroad Commission being of the opinion that applicant should be permitted to issue not exceeding \$10,900 of stock and that the money, property or labor to be procured or paid for by such issue is reasonably required for the purposes specified herein, and that this application should be granted as herein provided;

It is hereby ordered, that Consolidated Motor Freight Lines, Incorporated, be and it is hereby authorized to assume the payment of the \$3,551.43 of indebtedness referred to in the preceding opinion and to issue \$10,900 (2180 shares) of its capital stock.

It is hereby further ordered, that this application in so far as it relates to the issue of \$3,500 par value of stock be and it is hereby dismissed without prejudice.

The authority herein granted is subject to the following conditions:

1. Ten thousand one hundred fifty dollars of the stock herein authorized may be delivered to Lolita W. McFarland in part payment of the properties referred to in this application.

2. Seven hundred fifty dollars of the stock herein authorized may be delivered to J. B. McFarland on account of organization services referred to in this application.

3. Consolidated Motor Freight Lines, Incorporated, shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted will not become effective until applicant has filed with the Railroad Commission a stipulation duly authorized by its board of directors declaring that it, its successors and assigns, will never urge the Railroad Commission, or other public body having jurisdiction, to include in a rate base the \$10,150 of stock, or such other amount of stock which may be issued to acquire the non-public utility properties referred to in this application and a supplemental order made by the Commission reciting that such stipulation, satisfactory in form, has been filed in this proceeding.

5. The authority herein granted will apply only to such stock as may be issued on or before December 1, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eighth day of June, 1922.

DECISION No. 10567.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO-OAKLAND TERMINAL RAILWAYS FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE ISSUANCE OF EQUIPMENT TRUST NOTES FOR THE PURPOSE OF PAYING IN PART THE COST OF TWO NEW FERRY BOATS.

Application No. 7886.

Decided June 9, 1922.

Morrison, Dunne and Brobeck, by *W. I. Brobeck*, for Applicant.

BRUNDIGE, Commissioner.

OPINION.

In this application San Francisco-Oakland Terminal Railways asks permission to issue, at not less than 99 per cent of their face value and accrued interest, \$600,000 of 10-year 7 per cent serial equipment trust notes for the purpose of paying, in part, the cost of two new ferry boats.

The company further asks permission, as and when the plan of reorganization now being formulated by its bondholders and stockholders becomes effective, to use proceeds from the sale of a proposed issue of first mortgage bonds to pay the equipment trust notes at par and accrued interest.

The record shows that applicant, in the conduct of its ferry business between San Francisco and the Key System Pier, is operating four ferry boats of a carrying capacity of 2000 people each. The application and the testimony of W. H. Harris, applicant's assistant general manager, indicates that the present facilities are inadequate to properly take care of the business of the company, which is reported to be rapidly increasing.

To more properly take care of its traffic, applicant has concluded to acquire two new ferry boats. It is of record that arrangements have been made for the construction of two double-end, steel-hull, electrically-driven ferry boats, each of 3000-passenger carrying capacity. It is estimated that the aggregate cost of the two boats, including designing, inspection and other charges, will be approximately \$900,000.

To finance in part the cost of the two boats, the company proposes to issue and sell \$600,000 of equipment trust notes. The notes will bear interest at not exceeding 7 per cent per annum, will mature at the rate of \$60,000 a year either monthly, quarterly or semiannually, and will be callable at par and accrued interest on any interest payment date.

The notes will be issued under an equipment trust agreement under the terms of which a trustee will hold title to the two ferry boats. Applicant will operate the boats under a lease agreement, obligating it in effect to pay the notes.

Applicant has not submitted to the Commission a copy of the proposed equipment trust and lease agreements. Obviously the Commission can not at this time make a final order in this proceeding. The order herein will not become effective until applicant has filed with the Commission a copy of its equipment trust and lease agreements, and the Commission by supplemental order has authorized their execution.

I herewith submit the following form of order:

ORDER.

San Francisco-Oakland Terminal Railways, having applied to the Railroad Commission for permission to issue \$600,000 of equipment trust notes, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose specified herein and that the expenditures for such purpose are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that San Francisco-Oakland Terminal Railways be and it is hereby authorized to issue and sell, at not less than 99 per cent of face value plus accrued interest, \$600,000 of its ten-year 7 per cent serial equipment trust notes for the purpose of paying in part the cost of the two new ferry boats referred to in this application, or to assume the obligations under equipment trust and lease agreements looking toward the payment of \$600,000 equipment trust notes issued under the same terms and conditions.

The authority herein granted is subject to further conditions as follows:

1. The authority herein granted will not become effective until there has been filed a copy of the proposed equipment trust and lease agreements, and the Commission by supplemental order has authorized the execution of such equipment trust and lease agreements.

2. The authority herein granted will not become effective until San Francisco-Oakland Terminal Railways has paid the fee prescribed by the Public Utilities Act, which fee is \$600.

3. Applicant shall keep such record of the issue and sale of the notes herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The equipment trust and lease agreements shall provide for the payment of all equipment trust notes within one year after the date of an order by this Commission authorizing the issue of first mortgage bonds for the purpose of carrying into effect the reorganization plan referred to in this application.

5. The authority herein granted will apply only to such notes as may be issued, sold and delivered on or before December 31, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this ninth day of June, 1922.

DECISION No. 10570.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION TO ISSUE AND SELL FIFTY THOUSAND SHARES OF ITS SEVEN PER CENT CUMULATIVE PRIOR PREFERRED STOCK.

Application No. 7465.

Decided June 9, 1922.

BY THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

The Railroad Commission by Decision No. 9989, dated January 12, 1922, authorized San Joaquin Light and Power Corporation to issue and sell \$5,000,000 par value of 7 per cent cumulative preferred stock.

The Commission has heretofore authorized the company to expend the proceeds obtained from the sale of \$3,564,037.53 of the stock. The remainder of the proceeds can be expended only for such purposes as the Commission may authorize.

The company reports that it now has in bank upwards of \$1,000,000 obtained from the sale of stock, and upwards of \$2,400,000 obtained from the sale of bonds. This money will be used by the company to take care of this year's construction program. Some of the money, however, will not be permanently invested until after October first.

The company asks permission to loan temporarily not exceeding \$750,000 to the Southern California Gas Company, who will use the money for construction purposes and who agrees to pay the loan when the money is needed by the San Joaquin Light and Power Corporation.

It is evident that such loan will be beneficial to both companies. The Commission is of the opinion that applicant's request should be granted; and, therefore;

It is hereby ordered, that the order in Decision No. 9989, dated January 12, 1922, as amended, be and it is hereby modified so as to

permit San Joaquin Light and Power Corporation to loan to Southern California Gas Company not exceeding \$750,000 of the proceeds obtained from the sale of the stock authorized in that decision, subject to the condition that the loan be repaid as and when the money is needed by the San Joaquin Light and Power Corporation, and subject to the further condition that the loan be represented by a note bearing interest at the rate of 6 per cent per annum.

It is hereby further ordered, that the order in Decision No. 9989, dated January 12, 1922, as amended, shall remain in full force and effect, except as modified by this third supplemental order.

Dated at San Francisco, California, this ninth day of June, 1922.

DECISION No. 10576.

IN THE MATTER OF THE APPLICATION OF WILLITS WATER AND POWER COMPANY FOR AN ORDER ESTABLISHING RATES TO BE CHARGED BY WILLITS WATER AND POWER COMPANY AND REGULATING ITS SERVICE.

Application No. 7069.

Decided June 12, 1922.

RATES—WATER UTILITY—FEDERAL INCOME TAX.—It is held that applicant's claim that federal income tax should be allowed as an operating expense is not well founded.

RATES—SEPARATE CHARGES—MISUNDERSTOOD.—In response to applicant's request for a service charge and a charge for water used, the Commission rules that such a form of rate, while theoretically logical and equitable, is not generally understood by consumers and in many instances results in distrust and discord.

RATES—QUANTITY CONSUMERS—DISCRIMINATION.—While stating that purchasers of large quantities of water are entitled to a somewhat lower rate than the ordinary domestic consumers, the use of 42 per cent of all water delivered and the payment of only 10 per cent of the total revenue, is declared to be so great a differential as to be illogical and unjust.

Lilienthal, McKinstry, Raymond, Haber and Firebaugh, by *Joseph Haber, Jr.*, for Applicant.

M. L. Gillogly, for Northwestern Pacific Railroad.

F. W. Taft, for Town of Willits.

BY THE COMMISSION.

OPINION.

This is an application of Willits Water and Power Company for the establishment of meter rates to be charged for water supplied consumers in the town of Willits, Mendocino County, and to regulate service to the Northwestern Pacific Railroad.

The application alleges in effect that the present flat rates are non-compensatory and that the unrestricted use of water by the Railroad Company, in certain periods during the year, endangers the supply to the company's domestic consumers.

Public hearings in this matter were held in Willits and in San Francisco before Examiner Satterwhite. All interested parties were duly notified of the hearings and were given an opportunity to be present and to be heard.

This water system consists of a small diversion dam on James Creek; a 6-inch transmission pipe line, approximately 13,500 feet long; a storage reservoir of 18,000 gallons capacity; approximately 33,000 feet of distribution mains ranging from three-quarter-inch to eight inches in diameter; and about 300 active services, practically all of which are metered.

The present flat rate schedule was established by this Commission in Decision No. 382, dated December 30, 1912. At that time none of the services were metered but owing to shortage of supply during the dry years of 1918, 1919 and 1920, it was decided that every means of preventing waste and conserving the supply should be adopted. Meters were therefore installed in 1921 as a means of accomplishing this result, and the utility now desires that a schedule of meter rates be established which will cover maintenance and operating expense and depreciation, and yield a reasonable return upon the investment.

Mr. J. T. Ryan, engineer for the applicant, presented a report which set forth the original cost of the property, on April 30, 1921, as \$66,842. This amount was later revised to show a cost of \$68,137 on November 30, 1921, and includes an estimate of necessary working capital of \$1,500, also an estimate of the cost of extensions required in the near future amounting to \$1,000.

Mr. C. H. Monett, one of the Commission's hydraulic engineers, presented a report which showed the cost of the system, on August 31, 1921, as \$65,045. This amount does not include any allowance for working capital nor for materials and supplies.

It appears that the utility owns 1037.65 acres of land below the diverting dam on James Creek which cost \$4,957. Applicant claims that it was necessary to purchase this land in order to acquire the appurtenant water rights and that the property is worthless when divested of these rights. It is also urged that portions of the land are required in order to afford access to the diverting dam and for right of way for the transmission pipe line. It is therefore contended that the entire cost of this property should be included in the rate base.

On the other hand, Mr. Monett recommends that the cost of this property be deducted from the rate base, for the reason that it is not a portion of the watershed tributary to the diverting dam.

While it is apparent that a portion of this land should be retained by applicant to afford access to its dam and for pipe line right of way, it is also clearly evident that the area required for these purposes is a

comparatively small portion of the entire tract. The evidence submitted does not conclusively indicate that the area below the dam is worthless when divested of the appurtenant water rights, and it is evident that some deduction from rate base should be made to cover a reasonable value for this non-operative property.

A careful consideration of all the evidence leads to the conclusion that an allowance of \$66,500 for rate base will at this time be fair to both the utility and the consumers.

Applicant claimed that an allowance of \$10,000 per annum is necessary for the proper maintenance and operation of the system, or an average of approximately \$33.33 per consumer. Mr. Monett's recommended allowance for this purpose was \$6,374 per year, or about \$21.25 per consumer.

Although the allowance for maintenance and operating expense as recommended by Mr. Monett was vigorously contested by applicant, it will be unnecessary to enter into an extended discussion of the various elements involved, for the reason that the evidence clearly shows that the amount recommended by Mr. Monett is greater than the actual costs of maintenance and operation on water systems fairly comparable with applicant's plant, and also that the amount claimed by the utility is far in excess of similar costs on comparable systems.

Applicant's claim that federal income tax should be allowed as an operating expense is not well founded, as has been established by recent decisions by the courts and by this Commission. Reference is made to this Commission's decision No. 10348, dated April 24, 1922, in Application No. 6651 and Case No. 1544, involving electric rates of San Joaquin Light and Power Corporation, in which Commissioner Rowell said:

"It appears at this time from a careful study of court decisions and the act providing for this tax that this tax is not to be included in operating expenses."

After a careful review of the evidence submitted the conclusion is reached that a reasonable allowance for maintenance and operating expense for this water system is \$6,374 per annum.

Testimony submitted by applicant was to the effect that the revenues received from the operation of the system have not been sufficient to permit the establishment of a reserve to provide for the replacement of worn-out elements of the plant, although the company has from 1902 to 1917 declared dividends of 6 per cent on capital stock of \$44,200, and dividends of 8 per cent subsequent to 1917. It further appears that applicant has never made application to this Commission for increased rates, although it was privileged to do so at any time

subsequent to the acquisition of jurisdiction over water utilities by the Commission.

The successful and continued operation of any utility requires the setting aside of sufficient funds to cover depreciation of the various structures comprising its plant, and the evidence submitted in the present proceeding indicates that the sum of \$1,400 per annum, computed by the 6 per cent sinking fund method, will be a reasonable allowance for this purpose.

Annual charges, based upon the foregoing items, are as follows:

Return at 8 per cent upon \$66,500-----	\$5,320 00
Maintenance and operating expense-----	6,374 00
Depreciation annuity -----	1,400 00
Total -----	<u>\$13,094 00</u>

Operating revenues for 1920 were \$10,026 and for 1921 were \$11,963, the 1921 revenues being sufficient to cover maintenance and operating expense, depreciation annuity, and a return of 6.3 per cent upon an investment of \$66,500. A study of the evidence submitted shows that operating revenues for 1921 were 32 per cent in excess of those for 1918 and 19 per cent in excess of those for 1920, thus indicating a substantial growth in the utility's business which, if continued, would in a short time equal the foregoing annual charges.

The utility has now installed meters upon practically all services and desires the establishment of a metered rate for service rendered. Data pertaining to the actual quantities of water used by consumers on this system are so incomplete as to make the computations of reasonable rates extremely difficult, and such computations must of necessity be based upon estimates of water use.

Applicant desires the establishment of a form of rate which consists of two separate charges, one a service charge and the other a charge for water consumed. Such a form of rate, while theoretically logical and entirely equitable, is not generally understood by consumers and has in some instances resulted in distrust and discord. The rate established herein will, therefore, follow the customary practice in such cases.

Applicant estimates that the average daily use of water on the system amounts to 166,656 gallons, with a maximum daily use of 270,000 gallons. It was also estimated that the Northwestern Pacific Railroad Company used about 42 per cent of all water delivered and paid therefor approximately 10 per cent of the total revenue, at an average rate of less than four cents per 100 cubic feet, compared with an average rate of approximately twenty-three cents for all other consumers.

While purchasers of large quantities of water are entitled to a somewhat lower rate than are the ordinary domestic consumers, it is apparent that so great a differential as is indicated above is not only illogical but is also unjust, and the rates set out in the accompanying order are designed to remove such discrimination.

Applicant claims that the heavy draft upon the system by the Northwestern Pacific Railroad in the summer months has at times seriously affected proper service to the domestic consumers, and the Commission is asked to permit applicant to regulate the use of water for railroad purposes so as to safeguard the supply for other consumers. The testimony clearly shows, however, that the installation of meters and the establishment of a metered rate will prevent waste and conserve the water supply to a very material extent, and that, in all probability, no fears as to shortage of supply need be entertained for several years to come.

ORDER.

Willits Water and Power Company having made application as entitled above, public hearings having been held thereon, and the matter having been submitted:

It is hereby found as a fact that the rates now charged by Willits Water and Power Company for water delivered to consumers in and in the vicinity of Willits, Mendocino County, are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

And basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that Willits Water and Power Company be and the same is hereby authorized and directed to file with this Commission, within twenty (20) days from the date of this order, the following schedule of rates to be charged for water supplied to consumers, effective for all water delivered subsequent to July 1, 1922, or the meter reading period immediately preceding that date.

Minimum Monthly Charges.

For ½-inch meter	-----	\$1 25
For ¾-inch meter	-----	1 50
For 1-inch meter	-----	2 00
For 1½-inch meter	-----	3 00
For 2-inch meter	-----	4 00
For 3-inch meter	-----	7 00
For 4-inch meter	-----	10 00

Monthly Meter Rates.

From 0 to 5,000 cubic feet, per 100 cubic feet	-----	\$0 25
From 5,000 to 50,000 cubic feet, per 100 cubic feet	-----	20
From 50,000 to 100,000 cubic feet, per 100 cubic feet	-----	15
Over 100,000 cubic feet, per 100 cubic feet	-----	10

Municipal Uses.

For each 4-inch fire hydrant, per month-----	\$2 00
For each 3-inch fire hydrant, per month-----	1 00
For each sewer flusher, per month-----	2 00

All other municipal uses to be charged for at the meter rates.

Miscellaneous Uses.

For each private fire service connection, per month-----	\$2 00
For each public watering trough, per month-----	1 75

All other charges to remain as at present in effect.

It is hereby further ordered, that Willits Water and Power Company be and the same is hereby directed to file with this Commission, within thirty (30) days from the date of this order, rules and regulations to govern relations with consumers, such rules and regulations to become effective upon their acceptance by the Commission.

Dated at San Francisco, California, this twelfth day of June, 1922.

DECISION No. 10579.

PETALUMA AND SANTA ROSA RAILWAY COMPANY, A CORPORATION,
vs.

PARIS P. LAWSON, FRANK G. McSHERRY AND SAN RAFAEL FREIGHT
AND TRANSFER COMPANY.

Case No. 1601.

NORTHWESTERN PACIFIC RAILROAD COMPANY, A CORPORATION,
vs.

PARIS P. LAWSON, FRANK G. McSHERRY AND SAN RAFAEL FREIGHT
AND TRANSFER COMPANY.

Case No. 1608.

Decided June 14, 1922.

Geary and Geary, by *Donald Geary, T. J. Geary*, and *A. H. Maggard*, Attorneys
for Complainant in Case No. 1601.

J. J. Geary, Attorney for Complainant in Case No. 1608.

Sanborn and Rochl, by *A. B. Rochl*, Attorneys for San Rafael Freight and Transfer
Company.

S. S. Knight, Attorney for Petaluma Grange, Sebastopol Grange, Bellevue Grange,
Poultry Keepers' Association, the Poultry Producers of Central California,
and Sonoma County Farm Bureau.

Fred Martin, Attorney for Petaluma Chamber of Commerce, Sebastopol Chamber of
Commerce, and Santa Rosa Chamber of Commerce.

Sheridan W. Baker, President of Sonoma County Farm Bureau.

C. A. Bodwell, Master of the Petaluma Grange.

BY THE COMMISSION.

OPINION.

On April 16, 1920, Paris P. Lawson filed an application (No. 5581) with the Railroad Commission asking permission to establish service for the transportation of light freight, express and parcels by auto truck between Sausalito and Santa Rosa and all intermediate points. At

the hearing on this application, representatives of the American Railway Express Company and the Northwestern Pacific Railroad Company were present and offered no objection to the form of service proposed to be carried on by Lawson as described in his application. On June 8, 1920, the application was granted. (Dec. No. 7694.) The order of the Commission granting such application contained the following language:

The Railroad Commission hereby declares that public convenience and necessity require the operation by Paris P. Lawson, of an automobile express service as a common carrier of express and light freight between Santa Rosa and Sausalito and intermediate points.

On December 8, 1920, the Railroad Commission authorized the transfer by said Paris P. Lawson of such operative rights as were covered by said certificate to F. G. McSherry. (App. No. 6351, Dec. No. 8422.)

On May 2, 1921, said F. G. McSherry made application to the Commission (No. 6665) for permission to transfer such operative rights as he possessed by virtue of said certificate to the San Rafael Freight and Transfer Company. A public hearing was held on this application and the Northwestern Pacific Railroad Company, and the Petaluma and Santa Rosa Railway Company appeared and protested against the transfer. The protest of these railroads was based on the alleged facts that the original certificate of Lawson was intended to permit only the transportation of newspapers, small parcels or packages and some dairy products, whereas McSherry was carrying freight of every description. Protestants sought to have the original certificate amended or modified and the term "light freight" defined as meaning newspapers, parcels and dairy products. The application to transfer the operative rights from McSherry to the San Rafael Company was granted and in the Commission's decision (No. 9126) the following statement was made:

The contentions of protestants have no status in this proceeding, the protests of the Northwestern Pacific Railroad Company and the Petaluma and Santa Rosa Railway Company being matters to be properly brought before the Commission by formal complaint or petition for a reopening of the proceedings in Application No. 5581.

On May 14 and May 24, 1921, respectively, formal complaints were filed by the Petaluma and Santa Rosa Railway Company and the Northwestern Pacific Railroad Company, asking that the original permit granted to Paris P. Lawson, in response to Application No. 5581, be amended to permit only the operation of an "express and parcel delivery" service as contemplated in that application and as intended by the Commission when the permit was issued. It was also asked that the term "express and parcel delivery" be defined as to weight and size of parcels and express packages to be handled. On July 11 and August 17, 1921, respectively, the said complaints were amended and on September 19 the cases were consolidated for hearing before Examiner Geary at Santa Rosa.

Before it can be determined whether plaintiffs are entitled to the relief they ask or to any relief, we think it must first be determined what was meant by the term "light freight" in the original certificate issued to Lawson and now held by the San Rafael Company. This can only be determined by an inspection of the pleadings and records in Application No. 5581. We believe that when doubt or uncertainty exists as to the meaning of a previous decision or order, the Commission may consult the pleadings and records in the proceeding to enable it to settle the doubt. Certainly where a complaint is made specifically asking that a previous order be changed or amended to show its true meaning, the Commission may consult the record on which the order thus assailed was predicated.

In the original application of Paris P. Lawson for a certificate, the following statement appeared:

The petitioner proposes to take light freight and express and parcels to be delivered at points along the road as above set forth and along the route proposed herein. No other transportation company will handle the work proposed to be done along the line, between the points herein named.

At the hearing of this application, Mr. Lawson testified as follows (Transcript, Appl. 5581, p. 3):

I propose to carry express and light packages, such as express packages, where you take an order, they give you an order and you fill it along the road at those places as you come to, and fill it.

The representatives of the American Railway Express Company and the Northwestern Pacific Railroad Company were present at this hearing, and after Mr. Lawson had stated the kind of service he intended to engage in, the following statements were made (Transcript, Appl. 5581, p. 10):

Mr. Rogers (attorney for American Railway Express Company): Mr. Commissioner, the American Railway Express Company take no exception to the service. It is a service that we do not give to any extent. As I understand, it is simply a parcel delivery in this particular territory.

Mr. Maggard (General Manager of the Petaluma and Santa Rosa Railway, Transcript, Appl. 5581, p. 15): I would like to ask the Commission if the application could be confined to parcel delivery service, excluding express, the term "express"? The idea of that is this, that if this application should be granted and limited whereby the service can not be extended, and the franchise can not be transferred or disposed of for a different kind of service without another hearing before the Commission.

Examiner Geary: Mr. Maggard, the application simply requests authority to transport small articles, expressage.

Mr. W. F. Geary (attorney for the Petaluma and Santa Rosa Railway): What you mean is, if the application were granted for the limited purpose, permitting him to handle the nature of packages that he has testified he is now handling, and without increasing his equipment or increasing his schedule, and giving him,—limiting and preventing the transfer of the franchise, such a limited franchise as the Commission might grant him, you would have no objection?

A. That is the point.

Examiner Geary: Well, Mr. Geary, the application is limited to just that thing, to express packages.

Mr. W. F. Geary: Right here, for instance, this is the point, Mr. Examiner, that the company he runs run one round trip a day at a time when the company that I

represent and Mr. Maggard is interested in does not render service. He should not, however, without having to apply for a new permit, be enabled to increase his business so as to put on additional carriers and operate an extended schedule; then we would object.

Examiner Geary: Well, that can not be done without making a new application, unless more business is developed, more express business.

The Witness: In other words, then, Mr. Examiner, this application might be limited to the schedule shown there, and made non-transferable, without another formal hearing and we could then make our objections.

Examiner Geary: Well, those conditions are incorporated in every order of the Commission; they can not be transferred unless on a formal order of the Commission.

In the order of the Commission granting Mr. Lawson the certificate for which he asked, the following statements appear:

It is not the intention of applicant to change the character of the business being done, but rather to place the operations within the law and by tariff publication establish fixed rates to be collected for the service performed which appears to be nothing more nor less than the delivery of newspapers and small packages of merchandise, ice cream and dairy products.

The Northwestern Pacific Railway, Petaluma and Santa Rosa Railway, and the American Railway Express entered appearances, but introduced no testimony in opposition to the application, it being the general opinion that Mr. Lawson's service did not sufficiently interfere with any business which was or could be handled by the regularly established transportation companies.

After consideration of the evidence in this proceeding, we are of the opinion that there is a public convenience and necessity for the operation by Paris P. Lawson of an automobile express and parcel delivery service between Santa Rosa and Sausalito and the intermediate points.

It will be seen from the above that Mr. Lawson himself intended to carry on an express and parcel delivery service and that all the parties to the hearing understood that that was the nature of the business. The Commission then defined in the opinion the service which Mr. Lawson was to be permitted to carry on, and described it as an "automobile express and parcel delivery service." Only when it came to the order itself did the Commission use the expression "express and light freight."

In view of these facts, we think it is entirely clear that the terms "express and light freight" were intended to mean the same as the terms "express and parcel delivery" which were used in the opinion of the Commission preceding the order itself.

When Mr. Lawson obtained his certificate he was operating a one-ton truck with a thousand-pound trailer. (Transcript, Appl. 5581, p. 6.) At the hearing on the complaint now under consideration, Mr. Marks, managing partner of the San Rafael Freight and Transfer Company, testified that the company had three two-ton trucks, one two and one-half-ton truck, besides a Ford that was supposed to carry two tons under a big load and a one-half-ton truck. (P. 10.) Mr. Marks also testified that they were hauling everything they could get, including groceries, vegetables, provisions of all kinds, and that they placed no limit upon the weight of articles which they carried, except that they had not had anything except one-man loads. It was also shown in the

evidence that the San Rafael Freight and Transfer Company was hauling regularly large quantities of chickens. These chickens were packed in crates or coops $4\frac{1}{2}$ feet long and 18 inches high and 30 inches across, weighing from 200 to 250 pounds. It was shown that for loads of this character, an extra man was used to assist in the loading and unloading of the chicken coops.

From this evidence we are satisfied that the defendant is exceeding the rights granted to its predecessor, Paris P. Lawson, to operate an automobile express and parcel delivery service.

The rights which the San Rafael Company now possess, by reason of its certificate are, of course, identical with those originally granted to Paris P. Lawson. The permit granted to Lawson authorized, as we have said, only an express and parcel delivery service. Regardless of what the San Rafael Company may have believed it was acquiring, it actually acquired only this limited right possessed by Lawson, and later by McSherry.

We do not believe it can be said that the San Rafael Company is an innocent purchaser and has parted with a valuable consideration which will, in part, be taken away from it if its operations are now limited to express and parcel delivery. The San Rafael Company must be presumed to have known what the order granting Lawson permission to operate his service provided for. Although the order does use the somewhat indefinite expression, "light freight," the opinion of which it is part, and upon which the order is based, gives a clear indication of the nature of this permit. It describes the operation Lawson was previously carrying on; states that it is not the intention of applicant to change his existing service, but to make it lawful by obtaining a certificate and filing tariffs, etc., and declares that the service is "no more nor less than the delivery of newspapers and small packages of merchandise, ice cream and dairy products." It is then stated that public convenience and necessity require "an express and parcel delivery service." We think this description of the right actually granted by the order was sufficiently clear to advise the defendant what it was acquiring when it obtained the operative right from McSherry.

Aside from this presumption, it appears that the San Rafael Company had actual notice of the facts that the complainants here contested the right of McSherry and would contest its right to operate more than an express and parcel delivery service. The transfer from McSherry to the San Rafael Company was not and could not have been consummated until the Commission made its order authorizing such transfer. Any negotiations had between the parties looking to a transfer could only have been contingent on final approval by the Commission. Final approval was not given until June 21, 1921. A

hearing on the application to make the transfer was had May 3, 1921. At this hearing both present complainants were represented and the question of the meaning of the term "light freight" was discussed. The order granting the original permit to Lawson was read in full by the attorney for the Santa Rosa and Petaluma Railway Company and it was pointed out that the term "light freight" could only mean small packages of merchandise, newspapers, ice cream and dairy products as described in the opinion. (Transcript, Appl. 6665, p. 46.) This occurred a month and eighteen days before the San Rafael Company actually acquired the operative rights here in question. In no sense, therefore, can that company be considered an innocent purchaser.

If the San Rafael Company actually believed that it was getting a greater right than that described in the original Lawson order, it made the deal with full knowledge that the construction of that order which it contended for would be attacked, and that complaints would be filed by the present complainants against which it would be called upon to defend itself.

Section 64 of the Public Utilities Act authorizes the Commission at any time, upon notice to the utility, and after hearing, to rescind, alter or modify any order or decision. The defendant herein has had notice and a hearing has been held. We are of the opinion that the original order should be modified for the purpose of correctly and clearly defining the nature of the permit as described in the opinion preceding such order. In modifying this order, we are neither adding to nor taking away from the operative rights granted originally to Lawson and now held by defendant, but are simply making clear what is meant by the term "light freight" as used in said order and restricting defendant to the operative rights as originally granted.

In defining the operative rights, we are of the opinion that there should be a weight limit upon packages. In the evidence taken at the original Lawson hearing, it appears that Lawson was then carrying articles which weighed 50 or 60 pounds. There is nothing to show that he ever hauled anything of greater weight. We think 60 pounds is the proper limit for single articles of package merchandise.

It was alleged in the complaint that defendant was substituting other freight terminals for those named in the certificate and was extending its service to new territory not described in said certificate. We think the evidence did not establish the truth of these contentions and no order will be made respecting them.

ORDER.

For the reasons above set forth:

It is hereby ordered, that the order in Decision No. 7694, Application No. 5581, dated June 8, 1920, be amended and modified by adding to it the following:

The terms "express and light freight" as used in this order shall be deemed to mean newspapers, ice cream, dairy products, and package merchandise. No single article termed "package merchandise" shall have a weight in excess of 60 pounds.

It is hereby further ordered, that the San Rafael Freight and Transfer Company shall carry on its operations as a transportation company in conformance with the terms of Decision No. 7694, as modified herein.

Dated at San Francisco, California, this fourteenth day of June, 1922.

DECISION No. 10580.

IN THE MATTER OF THE APPLICATION OF POMONA VALLEY TELEPHONE AND TELEGRAPH UNION FOR AUTHORITY TO INCREASE RATES IN ITS CHINO EXCHANGE.

Application No. 7589.

Decided June 14, 1922.

Carl H. Lorbeer, for Applicant.

BY THE COMMISSION.

OPINION.

In this application Pomona Valley Telephone and Telegraph Union, hereinafter referred to as the company, seeks permission to increase certain rates at present in effect in its Chino exchange, as follows:

	Present	Proposed
Main line business, wall telephone, per month-----	\$2 50	\$3 00
Four-party line business, wall telephone, per month-----	1 50	2 00

No other rates are affected. Attached to the application is a petition signed by 56 subscribers for business service in the Chino exchange, which states that they desire an improvement in the present telephone system of the company, and therefore consent, upon the completion of the installation of a modern common battery exchange in Chino, to an increase of fifty (50) cents per month in the present rate for telephone service. These subscribers, it is claimed, constitute the entire number which will be affected by the proposed change.

A public hearing was held in Pomona, on April 14, 1922, before Examiner Williams. At this time exhibits were introduced, showing that the total income from the Chino exchange for the year 1921 was the sum of \$12,144.96, and expenses, including taxes and depreciation, as shown by the company's books, for the same period were \$13,200.07. These figures show that the exchange was operated at a loss of \$1,055.11. The net increase in income which will be produced by the application of the proposed rate will be approximately \$360, a sum much smaller than the claimed loss from operations during 1921.

The Pomona Valley Telephone and Telegraph Union operates exchanges in Pomona, Chino, Claremont, La Verne and San Dimas. The annual report of the company for the year 1921 shows gross revenue of \$118,619.67, and expenses, including taxes and other deductions, of \$104,619.67. It is evident, therefore, that although the exchange at Chino, according to the company's claim, was operated at a loss, the operations of the company as a whole yielded a return over and above all expenses.

Applicant's rates were revised by the Postmaster General during the period of federal control. At that time it appears from the testimony that the rates in the Chino exchange alone were not altered, owing to the fact that the equipment was magneto, and therefore considered to be out of date, whereas all of the other exchanges had common battery equipment.

The company is now installing a common battery system in Chino, and asks at the present time to have the business rates increased as proposed in order to equalize them with the rates in the other "branch" exchanges at Claremont, La Verne and San Dimas. The residence rates are practically the same in each of these exchanges at the present time.

The company offers free interexchange service at the present time between all of its exchanges. There is therefore available to all subscribers of the entire system precisely the same service. It was shown that although the granting of the present application will remove, in general, the differences now existing between the rates in effect in the Chino exchange and the rates in effect in the exchanges at Claremont, La Verne and San Dimas, the rates for similar service in the main and largest exchange, Pomona, will still be fifty (50) cents per month higher than in the so-called "branch" exchanges.

In order to remove the differences now existing in the business rates of the company at its branch exchanges, the Commission is willing, at the present time, to grant this application. It appears, however, that inequalities will still exist which can only be removed by a general revision of rates. The company has signified its intention of filing an application asking for such revision, and the Commission will wait a reasonable length of time for such an application to be filed. If an application is not filed, the Commission will then take such steps as may be necessary to bring this matter before it.

ORDER.

Pomona Valley Telephone and Telegraph Union, having applied to the Railroad Commission for permission to increase certain rates in its Chino exchange, a public hearing having been held, the Commission

being fully apprised and it appearing that the application should be granted;

It is hereby ordered, that applicant be and hereby is authorized to file with the Railroad Commission and make effective the rates set forth in the opinion preceding this order; provided, that the authority herein granted shall not become effective until applicant shall have certified to this Commission that the conditions of the subscribers' petition, the completion of the installation and placing in operation of a modern common battery telephone system for the Chino exchange, shall have been fulfilled.

Dated at San Francisco, California, this fourteenth day of June, 1922.

DECISION No. 10581.

IN THE MATTER OF THE APPLICATION OF MOKELUMNE RIVER POWER AND WATER COMPANY, A CORPORATION, FOR THE ESTABLISHMENT OF A SCHEDULE OF RATES TO BE CHARGED FOR WATER FURNISHED BY IT IN CALAVERAS COUNTY.

Application No. 4943.

IN THE MATTER OF THE APPLICATION OF MOKELUMNE RIVER POWER AND WATER COMPANY, A CORPORATION, TO DISCONTINUE SERVICE OF WATER FOR DOMESTIC PURPOSES IN THE TOWNS OF MOKELUMNE HILL, VALLEY SPRINGS AND CAMPO SECO, CALAVERAS COUNTY.

Application No. 6589.

Decided June 14, 1922.

F. J. Solinsky, for Applicant.

Joe Huberty, for consumers at Mokelumne Hill.

J. E. Lyons, for Southern Pacific Company, a consumer at Valley Springs.

BY THE COMMISSION.

OPINION ON REHEARING AND ON PETITION TO DISCONTINUE SERVICE.

In the above entitled application No. 4943 this Commission has heretofore, on April 8, 1920, rendered its opinion and order by Decision No. 7394 establishing a schedule of water rates. Subsequent thereto, and following the filing with the Commission of a number of informal complaints by consumers, a deviation from the above established rate schedule for irrigation use from domestic services was agreed to by the company and became effective on October 13, 1920.

However, dissatisfaction with the established rate schedule continued and following informal conferences thereon, a further hearing and investigation was instituted by this Commission on its own motion. As a result of this further hearing and investigation the Commission ren-

dered on May 28, 1921, its supplemental opinion and order on Application No. 4943 (Decision No. 9023) establishing therein a revised schedule of rates. Thereupon, applicant petitioned for a rehearing of Application No. 4943, on the ground that the revised rate schedule was confiscatory and would require the utility to operate its ditch system at a constant loss, and the petition for rehearing was granted.

Application No. 6589 alleges in effect that the present rates are non-compensatory and do not yield a revenue sufficient to meet the bare cost of operating the system without including any charge for a depreciation annuity; that a like financial condition has confronted this utility for the past five years; and that, by reason of insufficient income, necessary repairs and renewals have been long deferred and the utility has been unable to maintain the ditch system in a proper degree of efficiency. Furthermore, that the use of water from the system has diminished considerably in recent years with the decline of mining, thereby contributing to the reduction in revenue both from mining use and from domestic use in the towns of Mokelumne Hill, Campo Seco and Valley Springs. Applicant asks to be permitted to discontinue service of water in these towns unless it be allowed to charge such increased rates as will yield the reasonable costs of operating and maintaining the system but not including at the present time any allowance for a return on the investment.

A public hearing was held in above entitled matters before Examiner Satterwhite, at Valley Springs, on April 28, 1922, of which all interested parties were notified and given an opportunity to appear and be heard.

It was stipulated at the hearing that these matters be consolidated for hearing and decision.

The ditch, some 32 miles in length, was constructed in the early fifties for hydraulic mining purposes, which use required large volumes of water. Hydraulic mining has since ceased by reason of an act of the California legislature, and the present uses to which the ditch system has reverted is the supply of a few quartz mines operating intermittently, the irrigation of a small acreage and the domestic needs of the three small towns mentioned. This condition has in turn resulted in diminished revenues and the critical financial condition which now confronts the utility.

Prior to the hearing conferences between representatives of the consumers in the town of Mokelumne Hill and the company were held in an endeavor to arrive at a rate for domestic use which would satisfy both the utility and its consumers. As a result Mr. Huberty, for the consumers at Mokelumne Hill, submitted at the hearing a proposed rate for domestic use which differed from that asked by the company only

in minor details. After some argument of the matter an agreement was reached which contains the following stipulations:

1. That the Commission establish a minimum annual rate of \$36 for all residential use of water, payable in monthly installments of \$3 for use of 2000 cubic feet or less of water monthly. Also that all use in excess of 2000 cubic feet monthly be charged for at rate of five cents per 100 cubic feet.

2. That it be left to the discretion of the Commission to include in a rate schedule proper charges for all use of water other than residential.

In connection with above agreement as to a rate schedule, applicant stated that under present conditions it can only expect a revenue from rates to yield approximately the expense of maintenance and operation of the system without including depreciation allowance or interest return. Cooperation was requested of the consumers in promoting the use of water and in other ways that the operating revenue be made sufficient to enable the utility to continue operating its system.

In consideration of above stipulation, applicant asked to be permitted to withdraw the above entitled Application No. 6589 to discontinue service of water.

From a consideration of all the above facts, together with the records and files introduced in evidence in the prior hearings of Application No. 4943, the rate schedule set out in the following order has been computed and designed.

The evidence shows that by reason of large seepage losses in the twelve mile section of the ditch system from Mokelumne Hill to Valley Springs, applicant has been unable during several past seasons to deliver a sufficient supply of water to consumers in the town of Valley Springs during certain periods in the summer months. It appears that this condition can best be remedied by a considerable expenditure for repairs and renewals, for which expense funds are not available because of the small revenue possible from the present uses of water.

Under the circumstances, it is advised that applicant make such repairs to this section of the ditch as its funds will permit and endeavor to deliver the supply required by consumers in Valley Springs.

ORDER.

Proceedings having been brought before the Railroad Commission as entitled above, the matters having been consolidated for hearing and decision and being now submitted:

It is hereby found as a fact that the present rate schedule of Mokelumne River Power and Water Company, in so far as it differs from the rate schedule herein set out, is unjust and unreasonable and

that the rates herein established are just and reasonable rates to be charged by said company for water.

And basing its order upon the foregoing finding of fact and the other statements of fact contained in the opinion which precedes this order;

It is hereby ordered, that Mokelumne River Power and Water Company be and it is hereby authorized and directed to file with the Railroad Commission within twenty (20) days from the date of this order the following schedule of rates, to apply to all service rendered on and after July 1, 1922:

RATE SCHEDULE.

<i>Flat Rates for Domestic Use—</i>	<i>Per month.</i>
1. For all residential use, including irrigation of premises, a minimum annual charge of \$36 for 2000 cubic feet of water or less per month, payable in equal monthly installments.....	\$3 00
2. For private boarding houses, in addition to the residential rate, each roomer or boarder.....	20
3. Livery stables and stockyards, per average number of stock fed, each— Minimum charge	35 3 50
4. Public garages, average four autos or less..... For each additional automobile.....	3 50 50
5. Hotels, creameries, slaughterhouses, bottling works and laundries, according to use of water.....	\$3.50 to 9 00
6. For stores, shops or business places not otherwise listed.....	2 50
7. Additional for each bath tub, flush toilet or urinal in 3 to 6, inclusive	35
8. Barns in connection with stores or shops, not more than two horses... For each additional horse.....	50 25
9. For cold storage machines in addition to store rates.....	\$2.00 to 5 00
10. For use of hose in front of stores or shops for washing windows and sprinkling sidewalks and roadway, according to use.....	25c to 1 00
11. Water motors, according to size.....	75c to 3 00
12. For each hydrant especially installed for fire protection or for the individual use of persons, firms or corporations for fire service exclusively	75

Meter Rates—

1. For all residential use, including irrigation of premises, a minimum annual charge of \$36 for 2000 cubic feet of water or less per month, payable in equal monthly installments.....	3 00
All use over 2000 cubic feet per month, per 100 cubic feet.....	05
2. For all use of water other than residential:	
1500 cubic feet or less per month.....	3 00
Between 1500 and 5000 cubic feet per month.....	15
All over 5000 cubic feet per month.....	05

Meters may be installed at the option of the consumer or the company. When a meter is installed at the request of a consumer, a deposit may be required, such a deposit to be returned to the consumer as a credit on monthly water bills at a rate of one-seventh of the monthly bills for water used.

Irrigation, Mining and Industrial Uses—Open Ditch Service.

<i>For irrigation season—</i>	<i>Per miner's inch per day</i>
24-hour service, continuous flow.....	\$0 35
12-hour service, continuous flow.....	20
24-hour service, non-continuous flow.....	45
<i>For calendar year—</i>	
24-hour service, continuous flow.....	30
12-hour service, continuous flow.....	15

Minimum annual payment will be the equivalent of one-fourth of a miner's inch continuous flow for irrigation season of five months. Miner's inch equals one-fortieth of a cubic foot per second.

It is hereby further ordered, that within thirty (30) days from the date of this order applicant file with this Commission revised and amended rules and regulations governing service of water to consumers to become effective upon their acceptance by this Commission.

It is hereby further ordered, that Application No. 6589, as entitled above, be and it is hereby dismissed.

Dated at San Francisco, California, this fourteenth day of June, 1922.

DECISION No. 10582.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO INCREASE ITS RATES FOR ARTIFICIAL GAS SUPPLIED TO THE CITY OF SANTA BARBARA AND UNINCORPORATED COMMUNITIES IN THE COUNTY OF SANTA BARBARA.

Application No. 5234.

Decided June 14, 1922.

BY THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

Whereas, Southern Counties Gas Company of California has filed with this Commission, in accordance with Decision No. 9127 in the above entitled matter, a stipulation setting forth that, effective July 1, 1922, Southern Counties Gas Company of California is able to purchase oil of a satisfactory quality at an average price of \$1.95 per barrel at its gas plant in Santa Barbara; and

Whereas, in the Commission's Decision No. 9127 it was specified relative to the rates therein:

Upon the approval of the Railroad Commission of the State of California the above rates are subject to increase or decrease on the basis of 2.6c per 1000 cu. ft. for each 10 cents increase or decrease respectively in the cost of oil above or below the base cost of oil, which base cost herein is \$2.54 per barrel at the company's plant. Change to be to the nearest cent.

And whereas, in Decision No. 9515 in Application No. 5234, dated September 14, 1921, the Commission ordered Southern Counties Gas Company of California to reduce its rates as set forth in Schedules Nos. 1, 2 and 3 in Decision No. 9127 twelve cents per 1000 cubic feet, effective for all meter readings taken on and after the first day of October, 1921;

It is hereby ordered, that the rates set forth in Schedules Nos. 1, 2 and 3, in Decision No. 9127, in Application No. 5234 be and the same are reduced an additional three cents per 1000 cubic feet, or a total of 15 cents per thousand cubic feet, effective for all meter readings taken on and after the first day of August, 1922.

It is hereby further ordered, that Southern Counties Gas Company of California file with the Commission on or before August 1, 1922, a revision of its schedules to comply with this order.

Dated at San Francisco, California, this fourteenth day of June, 1922.

DECISION No. 10587.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN BEHALF INTO THE REASONABLENESS OF THE RATES OF THE SOUTHERN SIERRAS POWER COMPANY AFFECTING CONSUMERS ON ITS SCHEDULE NO. P-2 IN THE ZONE NORTH OF THE COMPANY'S SAN BERNARDINO STEAM PLANT.

Case No. 1704.

Decided June 14, 1922.

RATES—ELECTRIC UTILITY—SPECIAL CONTRACTS—DISCRIMINATION.—The Commission reiterates its position announced in numerous cases that special contracts applying to rates can not be recognized and upheld by the Commission without permitting discrimination which the Public Utilities Act prohibits.

RATES—COST OF SERVICE.—Although the cost of service is an important factor which this Commission considers in fixing rates, it is held unreasonable to regard such cost as the sole determining factor.

Le Roy M. Edwards, for Southwestern Portland Cement Company, Golden State Portland Cement Company, American Trona Corporation.

Hugh H. Craig and *E. B. Criddle*, for Southern Sierras Power Company.

A. L. Black, for Blue Diamond Materials Company.

BY THE COMMISSION.

OPINION.

On November 22, 1921, Le Roy M. Edwards, for Southwestern Portland Cement Company, Golden State Portland Cement Company, American Trona Corporation, filed an application with this Commission requesting relief in the form of lower rates for power service received from and delivered by the Southern Sierras Power Company under its Schedule P-2.

It appeared to this Commission that the consumers named herein were the only consumers receiving service under this rate within the zone specified and that they were practically precluded from filing a formal complaint under the provisions of section 60 of the Public Utilities Act of the State of California, and for this reason this Commission on its own motion instituted an investigation into the reasonableness of the rate, toll or charge of the Southern Sierras Power Company designated as Schedule P-2 as applied to its consumers in the zone north of its San Bernardino steam plant and of the reasonableness of the classification, rules, regulations, contracts or practices of the Southern Sierras Power Company in respect to the rates under Schedule P-2 and to those consumers mentioned above.

Such an order was instituted and hearings were held in this matter before Examiner Gordon in Los Angeles on February 7, 24, and April 24, at which evidence was introduced and on April 24 the matter was submitted, subject to the filing of briefs. Briefs were filed by Le Roy M. Edwards on May 4 and by Hugh H. Craig and E. B. Criddle for Southern Sierras Power Company on May 6, and the matter is now ready for decision.

In this proceeding Southwestern Portland Cement Company will be referred to as Southwestern Company, the Golden State Portland Cement Company as the Golden State Company, and the American Trona Corporation as the Trona Corporation. The term consumers as herein used refers to the three companies just mentioned. In this proceeding Southern Sierras Power Company will be referred to as the Southern Sierras Company or Power Company.

Prior to the filing of the application by the consumers in this case, the Blue Diamond Materials Company, a consumer of the Southern Sierras Power Company, receiving service south of the San Bernardino Mountains near Corona, had an informal complaint before this Commission requesting that modifications in the form of a reduction be made in the Southern Sierras Power Company Schedule P-1. Due to the fact that the electric service received by the Blue Diamond Materials Company is similar in nature to that received by the consumers in this case and the use to which same is put is quite comparable, this Commission requested the Blue Diamond Materials Company, if they so desired, to appear in this case and if agreeable that they be considered a party to this case. Blue Diamond Materials Company did appear and it was stipulated by the attorneys for consumers and also by the Southern Sierras Power Company that this proceeding would be enlarged to include service to it.

Mr. Edwards claims that consumers are entitled to a material reduction in rates on account of the economic competition which they can offer in the way of generating their own electric power; because the present rates are very much in excess of both the value and the cost of service rendered; and because the present rates result in an excessive discrimination between consumers and companies engaged in similar lines of businesses situated south of San Bernardino and supplied by other electric utilities.

Consumers through Mr. J. E. Barker submitted exhibits in which he computed a cost of service to these three consumers segregated from the rest of the system. According to his computations and on the assumption made by him, the average cost of service to the three consumers for the year ending August, 1921, amounted to 1.1 cents per kilowatt hour. Mr. Barker claimed that the rates to consumers should

be based entirely on the cost of service, and therefore that it was his opinion that the present demand and energy form of rate under which these consumers are receiving service should be modified to a straight energy rate resulting in an average figure of 1.1 cents per kilowatt hour. Consumers submitted considerable evidence to the effect that sufficient energy for the entire operation of their plants could be generated by the installation of waste heat equipment. The figures submitted by consumers covering the cost of energy so produced amounted to .686 cents per kilowatt hour. However, no substantiating data was submitted showing that this would be the actual cost of electric energy generated by waste heat. Consumers laid particular stress on the fact that the rates to the two cement plants herein being considered were considerably higher than rates of similar plants located south of San Bernardino and receiving electric service from the Southern California Edison Company. In reference to this particular item it appears that the consumers' complaint is not so much regarding the amount of the rate, but that the rates which they are required to pay for service from the Southern Sierras Company are considerably in excess of that paid by their competitors from another electric system.

Southern Sierras Power Company also submitted computations showing an average cost of service to consumers of 1.59 cents per kilowatt hour.

The Golden State Portland Cement Company on January 5, 1914, the American Trona Corporation on November 2, 1914, and Southwestern Portland Cement Company on October 5, 1915, signed contracts effective for a period of twenty years with the Southern Sierras Power Company for electric service. The rates set forth under these contracts were lower than the rates fixed in Decision No. 8119, and under this decision these consumers were placed under the regular schedule of rates then fixed.

Consumers claim that the Power Company should be required by this Commission to continue to furnish electric energy in accordance with these contracts during the term thereof.

The Commission in numerous cases has definitely stated that rates set forth in special contracts could not be recognized and upheld by the Commission without permitting discrimination which the Public Utilities Act prohibits. Consumers have advanced no sound reason why the schedule of rates as set forth in their contracts should be made an exception to this rule.

Consumers have stated a number of times in this proceeding that rates should be based on cost of service. Although the cost of service is an important factor which this Commission considers in fixing rates, it does not appear reasonable, and we have so stated on numerous

occasions, that this should be the only factor used in determining reasonable rates. Although consumers have requested that rates be fixed on the cost of service, yet, according to their own testimony, the value of service is in reality the dominating factor in this case. The "costs" estimated by Mr. Barker and by the company are of necessity based on such assumption and represent only two resultant figures of several which might reasonably be urged as representing cost.

The rates charged the cement plants by the Southern California Edison Company located south of San Bernardino are considerably lower than the rates for similar service to the consumers. This condition not only exists now but did exist when consumers originally contracted for service with Southern Sierras Power Company and also when the rates in Decision No. 8819 were fixed. This Commission has at all times been well aware of these conditions. Although it is true that a difference in rate does exist, yet it does not necessarily follow that the higher rates of the Southern Sierras Company should be lowered to those of the Edison Company in order that consumers might operate at the same cost as the cement plants south of San Bernardino. Power costs are only one of the items which go to make up the total cost of producing cement and the consumers have the same competitive conditions to meet in freight rates and in other operating costs as they have in power rates.

The evidence shows that there has always existed a differential in rates between those paid by applicants and cement plants served by Southern California Edison Company of from 20 to 30 per cent, and even on the comparative basis this differential should reasonably continue.

Applicants claim that due to their peculiar location there should be power rates fixed for that territory located north of San Bernardino Mountains and that this territory should be segregated from the rest of the system and special rates fixed for this particular territory. They further claim that due to the fact that this Commission did fix different lighting rates for that territory north of the San Bernardino Mountains than it did in the territory south of the San Bernardino Mountains, that a similar difference should be made in the power rates in these two territories.

A similar question regarding various rates in different localities was raised in connection with Application No. 5334 and in this Commission's Decision No. 8119. In this application the Commission stated as follows, referring particularly to the request of the cities of Rialto and Bishop for a special rate applying to the service in each of these cities:

The cities of Rialto and Bishop have urged that separate rates be fixed for them as compared with other parts of applicant's system, alleging that a very low cost of service occurs in those communities as compared with other districts. If the request

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of these cities was followed out, it would necessarily lead to the fixing of a large number of individual rates, each applicable to a small community or district. This would stifle development, prevent an extension of business, and result ultimately in higher rates in these cities and similar communities than would exist under the basis herein followed.

As systems are extended or consolidated and a large territory becomes dependent upon a given utility's system for service the general result is that the average cost of rendering the service required is reduced and one district is benefited by the inter-connection with another. Under these conditions it is practically impossible to directly allocate and determine what the actual cost of service in a given community is. It is practically impossible to so design schedules of rates that in each individual instance, or even possibly in cases of small communities, the rate of return on the investment so allocated will not be greater or less than in some other district based upon an arbitrary division of certain costs.

From the evidence in this case it appears that the consumers are entitled, particularly on account of the value of service, to some modification of charges in rates under which they are receiving service. Conditions appear to warrant the fixing of a new rate applicable to wholesale power service for industrial use, effective not only in the territory north of the San Bernardino Mountains, but to the entire territory served by the Southern Sierras Power Company outside of its Blythe and Yuma districts.

The Southwestern Company, Golden State Company and Trona Corporation are the three largest consumers on the company's system and any change in the rates affecting these three consumers should also be enjoyed by any other consumer who might operate under similar conditions.

ORDER.

The Railroad Commission having instituted a proceeding on its own motion for investigation into the reasonableness of the rates of the Southern Sierras Power Company affecting consumers on its rate Schedule No. P-2 in the zone north of the San Bernardino Mountains, hearings having been held, briefs filed and the matter being submitted and now ready for decision:

The Railroad Commission hereby finds as a fact that the rate set forth as Schedule P-24 herein is a just and reasonable rate to wholesale power service for industrial purposes as an optional schedule to the present Schedule P-2.

Basing its order on the foregoing finding of fact and other findings of fact contained in the opinion which precedes this order;

It is hereby ordered, that Southern Sierras Power Company file the following Schedule P-24 on or before July 1, 1922, effective for meter readings taken on and after July 1:

Schedule P-24.

Wholesale power service—

Applicable to wholesale power service for industrial and agricultural purposes.

Territory—

Applicable to entire territory served, except in Territory "B," Blythe and Yuma districts.

Demand charge—

First 300 horsepower or less of maximum demand.....\$440 per month
 Next 700 horsepower of maximum demand.....\$1.00 per horsepower per month
 All over 1000 horsepower of maximum demand.....90c per horsepower per month

Energy charge—

First 75,000 kilowatt hours per month.....1c per kilowatt hour
 All over 75,000 kilowatt hours per month.....0.9c per kilowatt hour

Special conditions—

(a) The demand charge is based on the horsepower of measured maximum demand occurring during that month, but in no case less than 75 per cent of the maximum demand occurring during the eleven preceding months.

(b) The maximum demand in any month shall be the average horsepower input (746 watts equivalent) indicated or recorded by instruments to be furnished and installed by the company upon the consumer's premises, adjacent to watt-hour meter or meters, in the 15-minute interval in which the consumption of electricity is greater than in any other 15-minute interval in the month, or, at the option of the company, the maximum demand may be determined by test.

(c) For installations of 500 horsepower or over the maximum demand occurring between the hours of 11 p.m. and 6 a.m. of the next succeeding day will not be considered in determining the maximum demand for billing purposes.

The effective date of this order shall be July 1, 1922.

Dated at San Francisco, California, this fourteenth day of June, 1922.

DECISION No. 10588.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES GAS AND ELECTRIC CORPORATION FOR AN ORDER AUTHORIZING THE ISSUANCE AND SALE OF ITS SERIES "E" BONDS IN THE AMOUNT OF FIVE MILLION DOLLARS PAR VALUE.

Application No. 7922.

Decided June 14, 1922.

Paul Overton, for Applicant.

BENEDICT, Commissioner.

OPINION.

Los Angeles Gas and Electric Corporation asks permission to issue and sell at not less than 92.25 per cent of their face value \$5,000,000 of Series "E" $5\frac{1}{2}$ per cent twenty-five-year general and refunding bonds due June 1, 1947, and to use the proceeds to reimburse its treasury and finance new construction. Upon giving ninety days notice the bonds are redeemable on June 1, 1932, and on the first day of June of any year thereafter before maturity, upon payment of the principal and accrued interest, and a premium, according to the date of redemption as follows:

On the first day of June, 1932, a premium of $7\frac{1}{2}$ per cent, and on the first day of each year thereafter, until maturity, a premium computed at the rate of one-half of one per cent for each year of the then unexpired term of the bonds.

Applicant's general and refunding mortgage is dated March 1, 1921, and secures an issue of \$75,000,000 of bonds, which may from time to time be issued in series (with respect to each series) to be of such denominations and to be issued and dated at such time or times; to bear such rate of interest; to mature at such time or times and to be subject to redemption and/or conversions on such terms as the board of directors of the company may determine as to each series thereof.

The company has heretofore been authorized to issue and sell \$9,500,000 face value of general and refunding bonds, consisting of \$2,500,000 of 7 per cent Series "A", due March 1, 1926; \$3,500,000 of 7 per cent Series "B", due March 1, 1931; \$1,500,000 of 7 per cent Series "C", due June 1, 1931; and \$2,000,000 of 6 per cent Series "D", due March 1, 1942. Subject to their issue being authorized by the Commission, the company has sold \$5,000,000 of 5½ per cent Series "E" bonds, due June 1, 1947.

Applicant as of June 1, 1922, reports outstanding \$13,847,800 of stock divided into \$3,847,800 of 6 per cent preferred and \$10,000,000 of common. Its interest-bearing funded debt in the hands of the public is reported at \$19,177,500.

W. E. Houghton, applicant's comptroller, testified that \$10,750,000 must be expended by applicant during 1922 for additions and extensions to its plants, properties and equipment. The proposed expenditures are summarized in Exhibit "D", Application No. 7631 and in Exhibit "D" of this application. Applicant expects to finance \$6,473,250 of the expenditures through the sale of bonds and the remainder of the expenditures through the sale of stock and the investment of earnings.

Though applicant asks permission to issue bonds to reimburse its treasury, it is of record that all the proceeds obtained from the sale of the bonds will be used to pay costs incurred in connection with the acquisition and construction of the additions and extensions to its plants, properties and equipment reported in its Exhibit "D."

I herewith submit the following form of order:

ORDER.

Los Angeles Gas and Electric Corporation having applied to the Railroad Commission for permission to issue and sell \$5,000,000 of bonds, a public hearing having been held, and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose specified in this order, and that the expenditures herein authorized are not reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Los Angeles Gas and Electric Corporation be and it is hereby authorized to issue and sell, for cash, on or before December 31, 1922, at not less than 92.25 per cent of their face value, \$5,000,000 of Series "E" 5½ per cent twenty-five-year general and refunding mortgage bonds due June 1, 1947, and use the proceeds to reimburse its treasury because of earnings used to pay for additions and extensions to its plants, properties and equipment, not financed through the sale of bonds or stock and to pay, in part, the cost of the additions and extensions reported in its Exhibit "D." All proceeds used to reimburse applicant's treasury on account of earnings expended for the payment of additions and extensions shall, after such reimbursement, be used to pay in part for the additions and extensions reported in applicant's Exhibit "D." Only such expenditures as are properly chargeable to capital account under the uniform classification of accounts prescribed by this Commission, may be financed through the sale of the bonds herein authorized.

The authority herein granted is subject to further conditions as follows:

1. Los Angeles Gas and Electric Corporation shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

2. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee amounts to \$3,000.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourteenth day of June, 1922.

DECISION No. 10589.

WILLIAM WAX ET AL.

vs.

SIERRA AND SAN FRANCISCO POWER COMPANY, A CORPORATION,
AND PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION.

Case No. 1397.

TUOLUMNE COUNTY, A BODY POLITIC,

vs.

SIERRA AND SAN FRANCISCO POWER COMPANY, A CORPORATION,
AND PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION.

Case No. 1419.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ABANDONING OF WATER SERVICE FROM COLUMBIA DITCH IN TUOLUMNE COUNTY, OR, IN CASE SUCH ABANDONMENT BE NOT AUTHORIZED, FOR AN ORDER FIXING AND DETERMINING THE AMOUNT OF WATER TO WHICH THE RESPECTIVE CONSUMERS AND CLAIMANTS TO SERVICE FROM SAID COLUMBIA DITCH ARE ENTITLED, AND FOR AN ORDER AUTHORIZING AN INCREASE OF RATES FOR WATER SERVICE THROUGH AND FROM SAID COLUMBIA DITCH.

Application No. 5572.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING AN INCREASE OF RATES FOR WATER SOLD TO ITS CONSUMERS IN THE COUNTY OF TUOLUMNE.

Application No. 6736.

Decided June 14, 1922.

RATES—WATER UTILITY—TUOLUMNE SYSTEM—UNITS NOT SEVERABLE.—In dealing with the question of rates for water service on the various units comprising the Tuolumne system, the Commission held that the facts do not warrant the conclusion that these units are severable and that rates can be prescribed for each independently of the other.

COLUMBIA DITCH—ABANDONMENT OF—RATES IN TRANSITION PERIOD.—While service on Columbia ditch, at present period of transition from mining to agriculture is found expensive, the abandonment, it is declared, would be so serious and vital a deprivation that it should not be permitted. No rate, it is held, could be established for this particular unit at the present time, compensatory to the utility which the consumers could afford to pay.

JURISDICTION—RATES AND SERVICE—DIVERSION.—The Commission, the decision points out, has jurisdiction over the rates, service and practices of a utility engaged in the distribution of water, but has no control over diversion of water, either as to the right or the quantity. The adjudication of rights to waters is declared to be within the jurisdiction of the Department of Public Works, Division of Water Rights.

RATES—WATER AND POWER SYSTEMS SEPARATE.—Referring to the contention of Tuolumne County that the power property of the Pacific Gas and Electric Company should be combined with the water system in establishing rates, the Commission said: "To allow a rate which produced not only a reasonable profit upon the electric properties but an amount additional which would

overcome a deficit accruing in another and separate department of the utility's activities would result in burdening one class of consumers at the expense of another class."

U. P. Cutten and Chickering and Gregory, by *Evan Williams*, for Defendants and Applicants.

Grant and Zimdars, by *Wm. Grant*, and *J. C. Webster*, for Tuolumne Water Users Association and for Complainants and Protestants.

Rowin Hardin, District Attorney, for Tuolumne County.

J. T. B. Warren, City Attorney, for the City of Sonora.

MARTIN, Commissioner.

OPINION.

Complaint was made in Case No. 1397 by William Wax and other water users on the Columbia ditch, a unit of the Tuolumne Water System, against the Sierra and San Francisco Power Company, then owner and operator of the Tuolumne Water System, engaged in selling water for domestic, irrigation and mining use in Tuolumne County, and in the generation, distribution and sale of electrical energy in Tuolumne, Stanislaus, San Joaquin, Contra Costa and San Francisco counties.

The complaint alleges that for the preceding three years complainants had not received sufficient water for their crops by reason of the poor condition of the ditch, flumes and pipe lines on the Columbia ditch, and asks that defendant be required to make the necessary repairs to the various structures and to the ditch proper, that water may be delivered in sufficient quantities to meet the requirements of the consumers.

The answer of the Sierra and San Francisco Power Company denies all of the allegations of complainants, and alleges that the water use through the Columbia ditch is uneconomical and wasteful due to the fact that it is used only for irrigation purposes, whereas if the water were diverted through the Phoenix power plant it would be used for two purposes, namely, power and irrigation. Defendant therefore asks permission to abandon service on the Columbia ditch. It is further alleged that if water in excess of what was delivered on Columbia ditch in the year 1916, namely, 10,140 miner's inches for 24 hours, is furnished, defendant will be forced to reduce the output of its Phoenix power plant, and also diminish the deliveries of water for irrigation and other purposes in other parts of its system. Defendant further alleges that the quantity of water delivered to the consumers in 1916 is the maximum to which the consumers on the Columbia ditch are entitled, and that the remainder of the water diverted for use on the system is dedicated for other uses in other parts of the system. Defendant therefore asks for a determination of the quantity of water it is obligated to serve on the Columbia system, if any obligation exist, and

that the rate be increased from 12½ cents per miner's inch to 50 cents per miner's inch per twenty-four hours.

A supplemental answer in this matter was filed by defendant which set out the fact that the properties of defendant had been leased with the permission of the Commission for a period of fifteen years to the Pacific Gas and Electric Company. The Railroad Commission thereupon issued its order substituting Pacific Gas and Electric Company as defendant in this proceeding, in the place of Sierra and San Francisco Power Company.

Subsequently the Pacific Gas and Electric Company applied for authority to abandon the Columbia ditch, for the reason set out in the answer of the Sierra and San Francisco Power Company, and asked that in the event the application was denied, the quantity of water to be delivered on the Columbia ditch be determined, and that a just and reasonable rate be established.

This application was followed by Application No. 6736, asking for the establishment of reasonable rates for water for all classes of service in Tuolumne County upon the ground that the rates in effect are non-compensatory.

Complaint in Case No. 1419 was filed by Tuolumne County against both the Sierra and San Francisco Power Company and the Pacific Gas and Electric Company, and alleges that defendants have acquired the properties of several water companies which were devoted to the public use of supplying water to the inhabitants of Tuolumne County; that defendants diverted water from the South Fork of the Stanislaus river to the main Stanislaus river for power purposes; that this water was dedicated to use in Tuolumne County; that the demands for water exceed the present supply; that a certain area known as the Blanket creek section desires water for irrigation purposes and can be served by an extension of the present ditch system, but defendant has refused to make the necessary extension. Complainant therefore asks that all the waters of the South Fork of the Stanislaus river be made subject to the demands of the water users of Tuolumne County; that defendants be enjoined from diverting the waters of the South Fork to the Main Fork of the river to the detriment of the water users of Tuolumne County, and that defendant be required to extend its ditch system to the "Blanket Creek" section.

Defendants in their answer deny all of the allegations of the complaint and allege that Tuolumne County is entitled only to a portion of the water from the South Fork of the Stanislaus river and that this quantity has been delivered and will continue to be delivered to the users who are entitled to the service.

The above proceedings were consolidated and hearings therein were held at Sonora and San Francisco, of which all interested parties were notified and given an opportunity to appear and to be heard.

The record shows that this system is a combination of several ditches constructed in the early days. The so-called Tuolumne Water System was constructed almost entirely in the early fifties to supply the placer mines of that time. When these mines became exhausted many of the ditches were abandoned but other laterals were built to supply the quartz mines which were opened after placer mining ceased. As the quartz mines were gradually worked out it became necessary to develop other uses for the water in order to hold the properties, and to that end irrigation was encouraged and power uses developed, and these have now almost entirely supplanted the mining use. The history of this system is typical of the other foothill ditch systems, as they have all had the problem of converting a mining property into irrigation and power properties.

The water is obtained by diversion from the South Fork of the Stanislaus river and its tributaries, being derived from the melting snows in the Sierras.

The demands upon the system during the summer months are greater than the normal stream flow and the supply is supplemented by water drawn from storage reservoirs, of which there are four, namely: Herring, Upper Strawberry, Lower Strawberry and Lyons, having a total capacity of approximately 21,400 acre-feet, of which 5199 acre-feet, according to applicant, are dedicated to use in Tuolumne County. The present Lower Strawberry reservoir has a capacity of approximately 18,000 acre-feet and is constructed on the site of an old reservoir of the same name which had a capacity of 1790 acre-feet. Sixteen thousand two hundred ten acre-feet of the capacity of the present reservoir is diverted through the Philadelphia ditch and dropped into the Middle Fork of the Stanislaus river through the Spring Gap and Stanislaus hydro-electric power plant, being then not available for irrigation in Tuolumne County.

The water used on the Tuolumne Water System is diverted from the South Fork of the Stanislaus below Lyons reservoir, conveyed through the main ditch, and divided between the Eureka system, Phoenix power plant and the Columbia system. The Eureka system supplies water for domestic and irrigation purposes to the towns of Tuolumne and Soulsbyville and the adjacent territory. The Columbia system supplies consumers in Columbia and vicinity. Water passing through Phoenix power plant, which has a capacity of 32 cubic feet of water per second with a drop of 1100 feet, is collected in Phoenix reservoir and thence distributed through various ditches for irrigation

and mining use in the vicinity of Sonora and Jamestown, and for domestic purposes in these towns. There are approximately 167 miles of ditches in the Tuolumne system, of which 63 miles are at present nonoperative. There are in all approximately 900 consumers of all classes and about 1800 acres are irrigated.

The Columbia ditch was constructed to convey water to the Columbia district for mining purposes, and was acquired and consolidated with the other ditches by defendant's predecessors. The water for this ditch is not diverted through the Phoenix power house and is not available for generation of power in that plant. It is 14.37 miles long and is located on a limestone formation that permits excessive seepage losses. In 1920 the water sales from the ditch were as follows:

	No.	Use miner's inches	Revenue
Domestic consumers -----	9	143	\$69 25
Irrigation consumers -----	40	5,092	636 50
Mining consumers -----	1	4,092	511 52
Totals -----	50	9,327	\$1,217 27

Sales in 1916 were approximately equal to those in 1920.

Due to the fact that water sold from the Columbia ditch can not be used for the generation of electric power, defendant contends that its operation is uneconomical and that, because of the comparatively small revenues derived from the sale of water therefrom, the service is not compensatory. Attention is directed to the fact that while a combination of irrigation and hydro-electric uses of water is preferable and admittedly most economical, yet the location of the Columbia section does not permit the double use.

In dealing with the question of rates for water service on the various units comprising the Tuolumne system, the Commission believes that the facts do not warrant the conclusion that these units are severable, and that rates can be prescribed for each independently of the other. On the contrary, the evidence shows that these various ditches comprising the Tuolumne system have been, and should continue to be, operated as a whole, and that the reasonableness of the rates as applied to any particular unit should be based upon a consideration of the operating conditions of the entire system.

It is plainly apparent that service on the Columbia ditch at the present time, during what may be termed the period of transition, and with a few consumers, is comparatively expensive, and no rate could be established on this particular unit of the Tuolumne system which, at one and the same time, would be compensatory to the utility and which the consumers could afford to pay. Nevertheless, the abandonment of service on the Columbia ditch would be so serious and such a

vital deprivation to the consumers that it is felt that abandonment should not be permitted and that the company itself and consumers on other portions of the system should help carry the cost of service in the Columbia section until that area shall become self-sustaining. At one time the Columbia section was highly prosperous and yielded millions in gold. Water then was very valuable for mining purposes and was also employed profitably in irrigation, as the products of the soil could be readily sold to advantage near at hand. But in the course of time the inevitable change came in the Columbia section. Today there is a scarcity of population and a slump in industry in Columbia and vicinity. Mindful of the past and hopeful of the future, it seems only fair that the Columbia section should be carried along.

To some degree the whole area served by the ditch system of the Pacific Gas and Electric Company, as lessee of the Sierra and San Francisco Power Company, is comparable to the Columbia section. The entire district has had the same history in industrial and agricultural development and as a whole is dependent upon the Tuolumne system for water. The future agricultural and, to some extent, the industrial growth is entirely dependent upon an adequate water supply, and all sections should have equal opportunity to participate in the present supply and should cooperate in obtaining an additional supply. The continuation of service to the Columbia section offers the company and the community an area for expansion in a section which was profitably productive at one time and may become so again.

According to the testimony, service conditions on the Columbia ditch have been greatly improved by necessary repairs, and the defendant proposes additional repairs and replacements which should further improve service and remove ground for most of the complaint.

It was contended by counsel for Tuolumne County that all the waters of the South Fork of the Stanislaus river were dedicated to use in Tuolumne County, and the claim was made that this was shown by the articles of incorporation of the various companies organized in the early days to distribute water from this stream, and was proven further by the actual use of the water in early days in Tuolumne County. Much testimony was introduced purporting to show that the original capacity of the flumes and the main ditch was far in excess of the quantity of water diverted and delivered, and that the county has been retarded in its development because of the diminished quantity of water available for use.

This Commission has jurisdiction over the rates and service and practices of a utility engaged in the distribution of water. It has no control over diversion of water, either as to the right or the quantity.

It finds a utility distributing a certain quantity of water. The Commission presumes that the utility has legally acquired the right to distribute that amount of water. If this right is to be questioned or adjudicated this Commission is not the tribunal that is vested with authority. The State Water Commission (now the Department of Public Works, Division of Water Rights) was created for the purpose of controlling the initiation of water rights in California, of determining and adjudicating existing rights on a stream, and after adjudication to see that the waters are properly distributed to those legally entitled to the use thereof. The matter of adjudication or ascertainment of the various water rights on the Stanislaus river was held recently by the State Water Commission. The matter was submitted and a decision rendered holding that Tuolumne County was entitled to 52 second-feet of natural flow of the South Fork of the Stanislaus river, and to 5199 acre-feet of the stored water held in storage reservoirs within the watershed of that fork of the river. Subsequently the matter was reopened at the request of defendant, Pacific Gas and Electric Company, protesting the quantity of water allowed the Oakdale and South San Joaquin Irrigation districts. However, a decision on the protest will not affect the original decision relative to the quantity of water held available for use in Tuolumne County. The adjudication of rights to the waters of the South Fork of the Stanislaus is within the jurisdiction of the Water Commission, and its decision, following confirmation by the superior court, is final.

The evidence relative to the Blanket Creek district demands for extension of service, shows that it would require construction of a ditch of about 24 miles at an approximate cost of \$100,000. According to the testimony there are at present about 80 acres cultivated in the Blanket Creek section, but the Blanket Creek Association claimed it would have 600 acres under cultivation in three years and that there would be required about 30,000 miner's inch days per annum. The revenues from this quantity of water under the present rate of 12½ cents a miner's inch per day would amount to \$3,700, or \$7,500 if the present rates were doubled. This return would not justify such an investment and would result in a burden upon the other consumers.

The Pacific Gas and Electric Company, as lessee, operates the so-called Tuolumne Water System, which, as stated before, is used in distributing water for mining, irrigation and domestic use. The water for domestic use is supplied to about 870 consumers in the towns of Tuolumne, Sonora and Jamestown. All the consumers are served on a flat rate basis beginning with a basic charge of \$1 per month for a residence, with extra charges for additional facilities. About 1800

acres of orchards, gardens and some pasture are irrigated from the system. The irrigation and the mining water is sold on a measured basis of $12\frac{1}{2}$ cents per miner's inch per twenty-four hours.

Mr. H. J. Smith, engineer for the Pacific Gas and Electric Company, submitted an appraisal showing an estimated cost of that portion of the Tuolumne system used in supplying water in the county, amounting to \$791,174. This sum is made up of the following items abstracted from an appraisal of the Sierra and San Francisco system by Carl J. Rhodin, which was based upon prices of labor and materials during 1916-1917 when the Philadelphia ditch was constructed:

Organization	\$4,090 00
Franchise	50 00
Water rights	92,800 00
Lands	36,005 00
Dams, Reservoirs and Conduits—	
Herring reservoir	\$3,626 00
Upper Strawberry reservoir	16,309 00
Lyons reservoir	15,399 00
Lower Strawberry reservoir	33,474 00
Main ditch	127,559 00
Phoenix reservoir	40,120 00
Eureka system	47,810 00
Columbia system	88,419 00
Phoenix Algerine system	57,741 00
Shaw Flat-Table Mountain system	100,112 00
Sonora-Jamestown system	48,081 00
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	578,650 00
Distribution mains	57,523 00
Services	7,591 00
Hydrants	671 00
General structures	5,058 00
General equipment	738 00
Working capital	7,000 00
Materials and supplies	1,000 00
	<hr/>
Total	\$791,176 00

In the foregoing estimate of cost of that portion of the system used in supplying water in Tuolumne County the total estimated cost of the main storage reservoirs and main canal has been segregated upon the basis of one-half to water and one-half to power uses. The distribution system is allocated entirely to water used and the Phoenix power plant entirely to power.

William Stava, one of the Commission's hydraulic engineers, presented an appraisal setting forth an estimated original cost of the entire Sierra and San Francisco property in the Tuolumne division, including water and electrical facilities, amounting to \$1,706,583. Of this amount \$900,000 represents the cost of the new Strawberry dam which replaces the Lower Strawberry reservoir and is mainly chargeable to the Stanislaus power development, and \$97,296 represents electric power development not chargeable to water. Making corrections

for these and segregating the balance as outlined above indicates an estimated original cost of the properties used in supplying water in Tuolumne County of \$613,357. The difference between this figure and that submitted by the applicant is accounted for by the fact that Mr. Stava's estimate did not include allowances for some intangibles, and that his unit costs were based upon pre-war conditions.

Testimony shows that the price paid by the Sierra and San Francisco Power Company for both the water and electrical facilities in the Tuolumne system, together with capital expenditures made since the date of purchase, amounts to approximately \$500,000, including water rights and other intangibles. Based upon the foregoing segregation of water and power facilities, \$368,000 should be allocated to property used in supplying water in Tuolumne County.

Evidence was presented to show that the main canal and flumes were originally constructed to carry 250 cubic feet of water per second, and in 1853 did actually carry that amount. Some time in the eighties the sides of the flumes were lowered and the capacity was reduced to 85 second-feet. Later a submerged weir was installed in the flume near the intake, which further reduced the section and limited the diversion to approximately 47.5 second-feet as found by actual measurement. Testimony also shows that the present section of the main ditch does not equal the original section, which is probably due to silting of the ditch.

No testimony was introduced relative to overbuilding of the distribution system, but in view of the very clear showing as to the original carrying capacity of the main canal, it is reasonable to conclude that so much of the distribution system as was in existence at the time the main canal was built had a carrying capacity similar to that of the main canal. However, the extent of overbuilding of the system can not be definitely determined from the testimony submitted, and it is evident that consideration should be given to other factors, such as the fact that this property was originally constructed for mining purposes and is now being converted to other uses, the feasibility of constructing such ditches for the irrigation service rendered, and the possibilities of increasing the areas irrigated.

Mr. Stava's estimate of reasonable annual maintenance and operating expense for the future amounted to \$33,700, while applicant's estimate of such expense is \$43,810. Testimony shows that various items in Mr. Stava's estimate should be increased and that applicant's estimate should be adjusted. Attention is called to the fact that the allowances made for taxes in both estimates are less than one-half of

the actual amounts which will be assessed against the property in the future.

A careful consideration of all the evidence indicates that a reasonable estimate of future annual maintenance and operating expense is \$43,145, and that the depreciation annuity calculated by the sinking fund method will amount to \$2,643.

Annual charges based upon the foregoing items will be as follows:

Return at 8 per cent upon \$368,000.....	\$29,440 00
Depreciation annuity	2,643 00
Maintenance and operating expense.....	43,145 00
Total.....	\$75,228 00

Revenues and use of water during the year 1920 have been as follows:

Class of service	Revenues	Sales of water in miner's inch days
Domestic	\$17,857 00	57,380
Commercial	2,694 00	21,743
Mining	8,453 00	65,892
Irrigation	7,717 00	49,544
Totals.....	\$36,721 00	194,559

A comparison of the foregoing annual charges and revenues indicates that an increase in rates is justified. It should be noted that the total revenues for 1920 were less than the estimated reasonable annual maintenance and operating expense for the immediate future.

A study of the total quantities of water diverted into the ditch system during the irrigation seasons, May 15 to October 15, for the years 1913 to 1920, inclusive, indicates an average diversion of 237,588 miner's inch days, and a maximum of 264,973 in the year 1920. Based upon a full diversion of 52 cubic feet per second there could have been turned into the head of the system a total of 328,240 miner's inch days, or 24 per cent more than was actually diverted in the year 1920.

During the irrigation seasons of 1913 to 1920, inclusive, there was actually delivered to consumers an average of 109,526 miner's inch days, with a maximum of 129,491 during the season of 1913.

The average amount of unaccounted for water during this eight-season period was 128,062 miner's inch days. This was 54 per cent of the average diversion and was 18,536 miner's inch days in excess of the average amount delivered to consumers. This percentage of water unaccounted for does not represent the actual loss in the system, as in the spring months large quantities of water are turned out at the spillways of the various ditches and from Phoenix reservoir when there is little demand for water and when there is a plentiful flow in

the river. Repairs and betterments to the system, made by Pacific Gas and Electric Company within the past few years, should result in a material reduction of the actual system losses.

It would therefore appear that there is additional water available for irrigation and mining and that a much larger acreage can be irrigated from the present supply. However, it also is apparent that there is not sufficient water to irrigate all the land that may be reached from the present canal system and that it will be necessary to develop additional water by storage to supply this land. This means expensive construction and it is an expense that the company would not be warranted in making unless assured of a return in a reasonable period. While there is no doubt that the area in question is capable of extensive development through an adequate water supply it would be unfair to expect the utility to make this expenditure and add the investment as a burden to the present consumers, while this new development is under way. For this reason it is suggested that when it becomes necessary to develop more storage, some cooperative plan be worked out by Tuolumne County and the company for financing this project.

Attention is again directed to the dependency of this area for water on the present ditch system. Tuolumne County is dependent on the one watershed, namely, the Stanislaus, for its present and also for its future water supply, and, as stated before, its future industrial and agricultural development hinges on a dependable and adequate supply of water. The company, on the other hand, whose interests are largely in electrical property, is not limited to the Stanislaus river, or to any one watershed for the development of water for power. It is feasible to enlarge many of its present installations that extend throughout the Sierras, or it can develop new projects capable of development to meet its needs. It seems fair and right, therefore, that Tuolumne County should be given consideration by the company in any future development of water in the Stanislaus river shed, and at the same time it is highly important that the county should adopt some constructive policy toward conserving water for use within its borders. It appears reasonably probable that the best results may be secured by the county and the company in cooperation.

Considerable complaint was made by various consumers regarding the service of irrigation water. This especially applies to the Columbia section. It appears that there are no definite rules and regulations for the delivery of water, the custom being for a consumer to notify a ditch tender or the office at Sonora that a specified quantity of water is desired at a certain time. Usually the request is complied with by the ditch tender, if possible. However, the quantity of water available

and the demands of the other consumers often prevent prompt delivery, and give rise to complaints of delay, and no doubt injuries to crops have resulted. This method of delivery causes a waste of water through indiscriminate service up and down a ditch, makes it impossible for the company to intelligently allocate the supply to the various ditches, and, as stated, causes complaints and damage through delayed deliveries.

The order in these proceedings will require rules and regulations providing for a rotation schedule of deliveries. This will allow the company to arrange regular periods of deliveries, thereby improving the service and effecting a saving of water. A proper rotation schedule of deliveries will also permit the utilization of a greater portion of the available supply through an orderly spreading of water use over the entire irrigation season.

A study of the use of water on this system was made and presented by C. H. Monett, one of the Commission's hydraulic engineers. Very little information as to actual water use could be obtained in this area, due to the irregularity of the irrigation methods employed and the lack of records on the character of crops. Mr. Monett therefore applied the use of water as found on the lands irrigated by the Excelsior Water and Mining Company in Yuba and Nevada counties, the conditions being similar to those in this area. The use of water as found on various crops in the Excelsior system is as follows:

Meadows	-----	3.27 acres per miner's inch
Orchards	-----	4.10 acres per miner's inch
Alfalfa and forage	-----	2.72 acres per miner's inch

Applying a net use of 3.27 acres per miner's inch, 52 cubic feet-seconds or 2080 inches would irrigate 6350 acres. Assuming 25 per cent loss for seepage, leakage and evaporation in the canals and flumes, 4750 acres could be irrigated. Assuming a loss of 40 per cent, which is more probable, 3800 acres could be irrigated. The testimony indicated that the duty of water for orchards could be assumed as 1 to 2 acre-feet per acre, equivalent to $7\frac{1}{2}$ to $3\frac{3}{4}$ acres per miner's inch, and for alfalfa the duty is estimated as 3 acre-feet per acre, or $2\frac{1}{2}$ acres per miner's inch, and approximates the duty assumed.

A questionnaire to the water users of the Tuolumne system, dated November 18, 1917, shows that the land actually irrigated in 1917 was 1427 acres and that 8561 acres were cleared and suitable for irrigation. The questionnaire of 1920 shows that 1787 acres were irrigated that year and that 24,475 acres were capable of being irrigated from the ditch system. Of this acreage 19,776 acres were reported cleared and 10,832 acres as being cultivated.

It appears, therefore, that less than one-half the acreage for which water is available is being irrigated. However, the domestic and mining supply must be provided for from the 52 cubic feet-seconds and this will reduce the quantity of water available for irrigation.

Considering the greatly improved condition of the system and the reduction of losses in transmission, together with the possible improvement in operating methods through the establishment of the rotation system of deliveries, it appears reasonable to assume that several hundred additional acres could at this time be added to the area served. Future operation of the system will demonstrate what further additions may safely be made. Care should be taken that the increased irrigated area be not so large as to injuriously affect the present consumers.

Representatives of Tuolumne County contended that the power property should be combined with the water system in establishing rates, as the Tuolumne Water System had always been operated as a unit until it was acquired by the Sierra and San Francisco Power Company. It was further contended that the revenues from the sale of power would be sufficient to pay all operating expenses and give a sufficient return on the investment so that it would not be necessary to increase rates.

Property used by a company in the development and distribution of electricity is considered by the Commission in the establishment of electric rates, and the profits of a company are limited to a fair return. Exactly the same thing is true of water service. The electric unit in Tuolumne County may be more profitable than other units on the system, due to favorable operating conditions, but the total return from the system as a whole must be and is considered in establishing a reasonable rate.

Attention is directed to the fact that the Commission is called upon to establish fair and proper rates for various classes of utility service, among which are rates for electricity. In establishing such electric rates it is the Commission's duty and endeavor to adopt only those rates which yield a fair or reasonable return upon the property used in affording the service. To allow a rate which produced not only a reasonable profit upon the electric properties but an amount additional which would overcome a deficit accruing in another and separate department of the utility's activities, would result in burdening one class of consumers at the expense of another class.

It was testified that the power plant was installed for the purpose of producing additional revenue and holding water rights when the water use at the mines was gradually decreasing and some other use

had to be developed. The plant was installed in 1898 and the revenue derived therefrom was sufficient to pay operating expenses and a return on the investment, and at the same time maintain the low water rate, as the water had two uses.

Due to the interconnection of the generating plants of the Pacific Gas and Electric system it is impossible to determine the revenues derived from the energy generated at Phoenix power plant. However, the amount generated is measured and recorded in the annual reports filed with the Commission. At the request of Mr. Grant, attorney for Tuolumne County, for an approximation of the gross revenue derived from this energy, Mr. Dodge of the Commission's Gas and Electric Division prepared a statement showing an approximation, which was reached by computing the average return per kilowatt hour from the total energy generated by Sierra and San Francisco Power Company, and the gross revenue, and applying this price per kilowatt hour to the output at Phoenix. Due to the variety of rates charged on the system and the multiplicity of uses to which energy is applied, it is clear that the result obtained is the roughest of approximations, and is as follows:

Estimated revenue from energy produced at Phoenix power plant.

1918	-----	\$55,054 00
1919	-----	59,447 00
1920	-----	79,050 00

No estimates of the expenditure required to operate this plant were submitted, nor the investment required, nor operating expenses and fixed charges incurred in distributing the energy to the consumers, so that the above estimated revenue does not represent a figure of any real value. However, the Sierra and San Francisco Power Company definitely separated the power from the water property and operated the system as two activities, and this arrangement is being continued by the Pacific Gas and Electric Company as lessee. For this reason the latter company, applicant herein, has made application for the establishment of rates for the purpose of making the water end of the property pay its share of the expenses incurred in operating it, and to yield a return. As the water property has been operated and considered a unit or a separate business, the Commission will establish rates on the basis of its being an independent unit.

As has been stated before, it is apparent that the applicant is entitled to an increase in rates, but it is also obvious that it would be unfair to compel the present consumers to pay a rate which would at this time provide a full return upon the entire investment. The rates recommended are therefore based upon what the service is

reasonably worth at this time, and compare favorably with the rates established by the Commission in other localities where fairly comparable conditions obtain.

It is difficult to establish flat rates for industrial plants such as the Standard Lumber Company, the Sierra Railway Company, and the Sonora Ice and Storage Company. It is recommended that the large users be placed on a measured basis so that the quantity may be determined and a proper charge established for the service. For this reason a measured rate will be recommended in order that certain discriminations in the old schedule of flat rates may be eliminated.

In order that a satisfactory and workable system of rotation deliveries of water may be put into effect it will be necessary for consumers to make application to the company setting forth the quantities of water required for use during the irrigation season. Such applications should be filed sufficiently in advance of the opening of the season to inform the utility of its probable obligations in regard to deliveries of water.

The following form of order is submitted:

ORDER.

William Wax and other consumers on the Columbia ditch, and Tuolumne County, a body politic, having complained to the Railroad Commission regarding the service rendered by the Sierra and San Francisco Power Company, a corporation, and the Pacific Gas and Electric Company, a corporation, lessee, and the Pacific Gas and Electric Company having applied to the Railroad Commission for authority to abandon the water service from Columbia ditch or for an order determining the quantity of water which should be allocated to this ditch and increasing the rates for service on the ditch, and having further applied for authority to increase the rates for water sold to its consumers in Tuolumne County, and these matters being consolidated for hearing, public hearings having been held, and the matters having been submitted:

The Commission hereby makes its findings of fact as follows:

1. The service heretofore rendered by the Pacific Gas and Electric Company and its predecessors in interest on the water system known and described as the Tuolumne system, including the Columbia ditch and other ditches in Tuolumne County connected with said system, has been and is now insufficient and inadequate, due in part to the wastage of water by leakage resulting from the porous condition of the soil through which the distribution system is constructed, from the failure

of the utility to make proper repairs and improvements in the distribution system, and in part to the failure of the utility to place in effect upon said system proper rules and regulations for the service of water to consumers on a plan of rotation which would enable the utility to make a most efficient use of the water available for distribution.

2. The Pacific Gas and Electric Company, the utility at present operating said system, has, since its acquisition of control of the property, pursued a constructive policy in making repairs and improvements on the ditches, pipes and other structures.

3. The quantity of water available for use in Tuolumne County from the Tuolumne system, as determined by the State Water Commission, is 52 cubic feet per second of the natural flow of the South Fork of the Stanislaus river, and 5199 acre-feet of storage in reservoir within the watershed of said system.

4. The entire supply of water controlled by the utility, Pacific Gas and Electric Company, on the South Fork of the Stanislaus river or within the watershed of that river in excess of said 52 cubic feet per second of natural stream flow and of said 5199 acre-feet of storage has been and is now being used by said utility for the generation of electric power for sale and distribution to the public, and is thereby dedicated to public use for hydro-electric purposes.

5. The quantity of water available for use on the Tuolumne system is sufficient, under the proper method of conservation and distribution, for the present needs and uses in Tuolumne County and for some extension of service in excess of present uses; but the present available supply is not sufficient for service to the entire irrigable area under the Tuolumne ditch system, and in order to serve such entire area an additional supply will have to be developed.

6. That the rates now charged by Pacific Gas and Electric Company, lessee, for water delivered to consumers from the Tuolumne system are unjust and unreasonable, in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates for such service.

And basing its order upon the foregoing findings of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered:

1. That the Pacific Gas and Electric Company, lessee of the properties of Sierra and San Francisco Power Company, be and the same is hereby authorized and directed to file with this Commission, within five (5) days from the effective date of this order, the following

schedule of rates to be charged for all water delivered to consumers in Tuolumne County subsequent to July 1, 1922:

Domestic and Commercial Service.

Metered rates:

Monthly minimum payments—

½-inch meter	\$1 25
¾-inch meter	1 50
1-inch meter	2 00
1½-inch meter	2 50
2-inch meter	3 00
3-inch meter	4 00
4-inch meter	5 00

Monthly rates for all water used—

From 0 to 500 cubic feet, per 100 cubic feet	25
From 500 to 3000 cubic feet, per 100 cubic feet	15
Over 3000 cubic feet, per 100 cubic feet	05

Monthly flat rates:

For residences of 5 rooms or less	1 25
For each additional room	10
For each bath tub	30
For each toilet	30
For each washing machine	50
Stores and shops	1 25
Dental offices	\$1.50 to 4 00
Printing establishments	1 50
Saloons or soft drink establishments	2 00
Bakeries	2 00
Drug stores	1 25
Blacksmith shops	1 50
Barber shops—2 chairs or less	1 50
Each additional chair	50
Each bath tub	50
Soda fountains, either alone or in connection with other business	1 50
Fire plugs	1 00
Private fire hydrants	30
Laundries, hotels, and other establishments not listed above to be charged at meter rates.	
Sprinkling or irrigation of lawns or gardens, per square yard of surface actually irrigated	.003

In case of question as to classification of a consumer under the above flat rates, a meter shall be installed and service given under meter rates.

Irrigation and Mining Use.

For all water delivered at the ditch or ditches of the company, per miner's inch per 24 hours, or the equivalent thereof in amount (1 miner's inch being equivalent to one-fortieth of one cubic foot per second) \$0 25

2. That Pacific Gas and Electric Company, lessee, be and the same is hereby directed to file with this Commission, within ten (10) days from the effective date of this order, rules and regulations to govern its relations with consumers, such rules and regulations to provide for the establishment and operation of a rotation system of delivery of water for irrigation use, said rules and regulations to become effective upon their acceptance by the Commission.

3. That 32/52 of the entire available supply be allocated for use through Phoenix power plant and the ditches below and tributary thereto, and that 20/52 of the available supply be allocated to the

ditches diverting from the main canal above Phoenix power plant; that no specific quantity be allocated to users on Columbia ditch, but that the supply allotted thereto be proportionately divided among the users on all the ditches diverting from the main canal above Phoenix power plant.

4. That Pacific Gas and Electric Company, lessee, be and the same is hereby directed to file with this Commission within sixty (60) days from the effective date of this order a program of improvement of the facilities on the Tuolumne system.

5. That the portion of Application No. 5572 relating to abandonment of water service from the Columbia ditch be and the same is hereby denied.

6. That the effective date of this order is hereby fixed and designated as June 25, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourteenth day of June, 1922.

DECISION No. 10590.

IN THE MATTER OF THE APPLICATION OF THE CITY OF OROVILLE, CALIFORNIA, A MUNICIPAL CORPORATION, TO FIX THE JUST COMPENSATION WHICH SHALL BE PAID BY SAID CITY FOR THE GAS PROPERTIES AND THE ELECTRIC DISTRIBUTION SYSTEM OF THE PACIFIC GAS AND ELECTRIC COMPANY IN SAID CITY OF OROVILLE AND CERTAIN TERRITORY ADJACENT THERETO.

Application No. 4019.

Decided June 16, 1922.

JUST COMPENSATION—VALUATION WORK—NORMAL CONSTRUCTION PERIOD.—The Commission adopts the view that in valuation work, to arrive at just compensation, valuation estimates must be predicated upon a normal and reasonable construction period under normal and reasonable construction conditions and that this rule should have its influence on the labor and material costs and on the so-called overhead allowances applied to an inventory.

GOING CONCERN VALUE—DEVELOPMENT COST.—In this case the Commission applies the method followed in the Redding case for arriving at going concern value, or development cost, namely, to allow 2 per cent per annum, the difference between a normal return of 8 per cent and a minimum return of 6 per cent, during the assumed reasonable development period of the enterprise. In the instant case, this development period is fixed at two years.

JURISDICTION—JOINT POLE AGREEMENT—SEVERANCE DAMAGES.—The Commission holds that it has no jurisdiction to prescribe or enforce agreements between cities and utilities as to joint pole use and the like, and therefore makes an allowance for severance damages.

B. D. Marx Greene and *R. A. Leonard*, for Applicant.
C. P. Cullen, for Pacific Gas and Electric Company.

BENEDICT, Commissioner.

OPINION.

In this proceeding the city of Oroville (hereinafter referred to as the city or the applicant) asks this Commission to fix and determine the just compensation to be paid to the Pacific Gas and Electric Company (hereinafter referred to as the company) for the properties constituting its electric distribution system and its gas properties in the city of Oroville and adjacent territory.

A general description of the properties sought to be acquired is given in the original and amended petitions filed on August 15, 1918, and on January 15, 1919, respectively, and a more detailed and accurate description is attached to this decision and made a part thereof as Exhibit "A" (for the electric property) and as Exhibit "B" (for the gas property).

This is a proceeding under section 47 of the Public Utilities Act and the procedure prescribed in that section and the methods heretofore followed by this Commission in similar cases have been adhered to in this case. Public hearings were held on January 15 and 23, 1919, on October 5, 1921, and on January 16, 1922. Exhibits and reports were filed by engineers of the company and of the Commission, testimony was heard, briefs of counsel were filed, the case has been submitted and is now ready for decision.

1. *General matters affecting both the electric and the gas properties sought to be acquired.*

The city desires that the just compensation be fixed in separate amounts for the electric and gas properties respectively. There are present, however, certain issues affecting both classes of property. It will not be necessary in this decision to review extensively the methods adopted by the Commission in finding just compensation. These methods were discussed at length in prior decisions in similar cases and especially in Decisions Nos. 6537, 8542, 8745 and 9885 in the so-called Redding case and in Decision No. 8162 in the so-called Auburn case, to which reference is hereby made. Similar methods and similar procedure, in so far as applicable to the facts in the case, were followed in this proceeding. The Commission's order and decision in the Auburn case were affirmed in a recent decision of the Supreme Court of this state (*Pacific Gas and Electric Company vs. Frank R. Devlin et al.*, 63 Cal. Dec. 132) and it should be said that this latest and authoritative decision has been given careful consideration in this case.

There are in evidence three valuation reports, two dealing with both the gas and electric properties and one with the electric property only. They are summarized in the following table:

TABLE I.

Summary of Valuations of Oroville Gas and Electrical Properties, as of September 30, 1918.

	Reproduction cost	Reproduction cost less depreciation
(a) Railroad Commission's Exhibits Nos. 1 and 2, "Engineering Department's valuation of Oroville plant, Oroville gas distribution system, Oroville electric distribution system of Pacific Gas and Electric Company"—		
1. Gas property	\$103,501 48	\$79,982 59
2. Electric property inside city.....	60,797 17	49,008 29
3. Electric property outside city.....	21,435 84	17,884 58
4. Total electric property.....	82,233 01	66,892 87
5. Gas and electric property combined.....	185,734 49	146,875 46
(b) Railroad Commission's Exhibit No. 3, "Supplementary valuation of Oroville gas plant, Oroville gas distribution system, Oroville Electric distribution system of Pacific Gas and Electric Company"—		
6. Gas property	127,689 90	98,737 55
7. Electric property inside city.....	80,758 96	65,196 25
8. Electric property outside city.....	29,241 67	23,767 18
9. Total electric property.....	110,000 63	88,963 43
10. Gas and electric property.....	237,690 53	187,700 98
(c) Pacific Gas and Electric Company's Exhibit No. 1, "Appraisal of electric distribution in Oroville and suburbs"—		
11. Electric property inside city.....	75,568 00	62,439 00
12. Electric property outside city.....	27,249 00	23,241 00
13. Total electric property.....	109,567 00	91,430 00

The company submitted no valuation of its gas properties.

In addition to its Exhibit No. 1, the company filed, as Exhibits Nos. 2 and 3, two estimates of severance damages pertaining to the electric property, as follows:

1. Pacific Gas and Electric Company's Exhibit No. 2, "Cost of reconnecting portions of system detached by condemnation of Oroville lines".....	\$1,954 00
2. Pacific Gas and Electric Company's Exhibit No. 3, "Severance damages"	6,177 00

The valuation estimates summarized under (a), (b) and (c) above are made on different bases. Commission's Exhibits Nos. 1 and 2 use averages of costs and prices for material and labor for a period of five years previous to the date of the valuation, while in Commission's Exhibit No. 3 all estimates are based on a "reasonable construction period" of one year prior to the date of the filing of the application (August 15, 1918).

Company's Exhibit No. 1 was introduced as being based on labor and material costs "at or about the date of the application on August

15, 1918" (Tr. p. 31). Upon examination of the witness it developed, however, that this was only theoretically true and that, as a matter of fact, about 99 per cent of the prices used "were within the limit of six weeks of either side of August 15, 1918."

Attention is called to this matter of the several valuation methods employed by the engineers for the reason that, throughout this proceeding and in the brief filed by counsel, the company consistently adheres to the proposition that the value of the property must be found as of the date of the filing of the application. This requirement apparently is construed by the company as demanding as nearly as may be the application of prices and costs for all labor and material obtaining on the particular day of the filing of the application; in this case, August 15, 1918. Aside from the fact that the valuation presented by the company's engineers itself violates this theory within a wide margin, the Commission should, in my opinion, reject this theory. No public utility plant of any size can be built in one day. It is true, a contractor may submit a bid for a piece of construction as of a particular day and may be held to the contract price. But this test does not meet the issue. The contractor, before he makes the bid, will of necessity have to estimate upon an expected construction period and will have to take into consideration expected costs of labor and material and overhead during such construction period. The Commission, in the valuation work done by its own engineering department, should adhere to the rule laid down in the Redding case, above referred to, that valuation estimates must be predicated upon a normal and reasonable construction period under normal and reasonable construction conditions and this rule should have its influence on the labor and material costs and on the so-called overhead allowances applied to an inventory.

Separate findings will be made for the electric and gas properties.

2. *Electric property.*

A description of the electric property sought to be acquired by the city is shown in Exhibit "A" attached to this decision. There is no dispute as to inventory quantities. Certain items, however, require consideration.

Included in the valuation estimate of the Commission's engineers is an allowance for the *franchise* under which the company operates, not only in Oroville but outside of the city. It was stipulated that the company should retain the right to conduct electricity to any of the company's works owned and used or useful for the conduct of its gas or water business in Oroville and the finding of just compensation will be made with this stipulation in mind. Since this matter affects the

gas property to a certain extent and since it may become a matter of moment in the future, I shall quote from the transcript, beginning at page 94, the portion relating to the franchise under consideration:

"Mr. Cutten: Mr. Cramer, I note on page 19 of your report, the first report, 19, and I think the item has not been changed, a value of \$96.75 for a franchise granted by the county, by the Board of Supervisors of Butte County. It is page 19 of your first report, account C-2, franchises, electrical.

A. \$96.75?

Q. Yes.

A. What was your question, Senator?

Q. I will ask now if that item of \$96.75 shown in your first report, on page 19, the statement of it was made, has been carried into your supplementary valuation?

A. Yes, you will find it on page 18 of the supplemental report.

Q. Now that is the franchise granted by the county of Butte?

A. Yes sir.

Mr. Cutten: That is all, Mr. Cramer.

Commissioner Benedict: Any further questions of Mr. Cramer?

Mr. Cutten: Nothing from us. I raised that point now, your honor, because of the fact that the complaint does not seek to condemn our franchise and this franchise is used not only, as I understand, in the city of Oroville, but it is used for other purposes outside of the city of Oroville. The complaint, of course—the application here does not ask for the condemnation of the franchise, has no use for our franchise. It is very necessary for us to do business under that franchise. Our severance damage is made up on the basis that you will retain that franchise, and I am asking the attorneys to stipulate—if the attorneys do not stipulate, I am asking the Commission to strike out that \$96.75 for the franchise. There has been nothing in the complaint asking to condemn it, or we will have to revise our exhibit here for severance damages to include very much—a very much greater sum.

Commissioner Benedict: Do the attorneys for the city of Oroville stipulate that that amount may be stricken from the valuation?

Mr. Greene: No, Mr. Commissioner. I think we may have to amend our application, that is we don't desire to condemn or take possession of any portion of that franchise other than that they may have within the city of Oroville and the contiguous territory where we are condemning the distribution plant. In other words, if the city takes over this plant it wishes a monopoly within that territory.

Mr. Cutten: We might stipulate that we shall have no right to serve anything in the city of Oroville or the territory that you are supplying under the condemnation proceedings, except our own gas works and our own water works and things of that kind, and I think that—we thought, with a stipulation of that kind that that ought to be satisfactory.

Mr. Greene: That is perfectly satisfactory.

Mr. Cutten: And furthermore you could not sustain any franchise condemnation, even if it were to be in the valuation here, when you have not asked to condemn it.

Mr. Greene: I realize that. We will stipulate that that is satisfactory.

Commissioner Benedict: Let us have it understood, then, that, by stipulation, you will strike this item of \$96.50 or \$96.75 from the valuation, and that the company will also stipulate—

Mr. Cutten: I might read what I would propose to stipulate here in respect to the other matter.

Commissioner Benedict: Go ahead.

Mr. Cutten: It is hereby stipulated that the Pacific Gas and Electric Company shall have only the right to erect poles, wires and other necessary appliances for the purpose of conducting and transmitting electricity and electric current for power, light and other necessary and useful purposes over, along and through the streets of the city of Oroville for service to the gas plant, the water pumping stations on Ward street and Meyers street to its office and other properties which, at the time of the filing of the application were owned, maintained or operated by the Pacific Gas and Electric Company, and which are now or may hereafter be owned and are maintained or operated by the Pacific Gas and Electric Company, its successors in interest and assigns in the city of Oroville, which said rights are hereby expressly omitted from the property to be acquired by the city of Oroville

and are expressly reserved to the Pacific Gas and Electric Company, its successors in interest and its assigns.

Mr. Greene: Too broad, Senator.

Mr. Cutten: You can say, 'For the purpose of conducting its business.' It seems to me—

Mr. Greene: No, it seems to me—we are perfectly willing to stipulate that you can conduct electricity to any works, which were owned by you at the time of the filing of this application, but to say that you shall be entitled to conduct it to any works which you may acquire hereafter, is entirely too broad. We don't want a competitive electric system in that city.

Mr. Cutten: It is not my purpose to make that reservation.

Mr. Greene: Anything which was owned prior—at the time of the application is all right, isn't it? Mr. Leonard is the city attorney of Oroville. Anything which is owned by you and used or useful for the conduct of your gas or water business.

Mr. Cutten: That is all right, I will accept that, because we might possibly move one of our plants.

Mr. Greene: That will be satisfactory.

Commissioner Benedict: Then it will be so understood, gentlemen."

Included in the valuation of the electric property and listed on page 18 and on page 28 of Commission's Exhibit No. 3, under the heading "Sub-station Buildings and General Structures" are three small structures valued by the Commission's engineer at a reproduction cost of \$2,500 and a reproduction cost less depreciation of \$1,750. The land on which these buildings are located is part of the company's gas property and included in the gas valuation. The city, in case it should elect to acquire the electrical properties, but not the gas properties, is desirous of including these buildings and the company has no objection. It was agreed at the hearing that an apportionment of the land in question should be made by the Commission, so that the city would own not only the buildings, but also the land on which they stand. Such apportionment, on a pro rata basis, has been made and the parcel of land segregated is included in the description of the electric property.

The accrued depreciation of the property listed in the inventory, and expressed in terms of "condition per cent" has been obtained, after a careful field inspection of the several property items, upon the so-called straight line method of depreciation. It must be kept in mind, however, that the condition per cent so obtained measures the depreciated condition of each individual plant item without regard to the *operating condition or operating efficiency of the plant as a whole*. The Commission's views on this matter have been discussed in Decision No. 8542, referred to above, and it is my purpose to adhere to the general rules laid down in this connection. In the Oroville electric plant it is in the record that the portions represented by street lighting are obsolete and the value of this portion of the plant is lower, therefore, than indicated by the "condition per cent." Although there is considerable testimony in the record, no exact estimate is in evidence giving a measure of the amount that should be deducted for this item

and I am satisfied that this is one of the elements where the Commission must exercise discretion based upon the evidence and upon its judgment.

The company makes a claim, in addition to the values estimated in the exhibits heretofore referred to, for what is usually called *going concern value*. Mr. Ryan, the company's valuation engineer, testified that the electric properties at Oroville are a paying and profitable business and that, after meeting all operating expenses, this business still leaves a certain net revenue in excess of a reasonable allowance for the cost of operation. Mr. Ryan estimates that the revenues are at least 8 per cent of the values shown in Commission's Exhibits Nos. 1, 2 and 3 and that because of the profitableness of the enterprise "there is unquestionably an additional value that attaches to the property as a going concern." It will be noted that Mr. Ryan here proposes an estimate of going concern by the method of capitalization of earnings.

Mr. Ryan also has approached the matter from the standpoint of the cost of developing the business. He testified (Tr. page 110) :

Looking at it from another angle, all enterprises of that kind have to go through a period, a process of development. That development is—consists of acquiring a paying business, after the property is installed, and such a process requires time and costs money, and it is usually carried into the capitalization as a cost of development. In considering the value of the property as a going concern, after determining the value of that—of this business is an element to be considered, rather than the cost of developing the value or developing the business.

The evidence on this item is very meagre. The company did not submit estimates or actual figures of earnings of the Oroville portion of its business for a number of years prior to this proceeding nor of corresponding operating and other expenses chargeable to that business. No evidence other than the testimony of Mr. Ryan, just quoted, of the cost of developing the business is before us. There is, therefore, no information upon which any except the most general calculations can be based. The annual reports of the company which are in evidence in this proceeding do not give the required information. I am satisfied, however, that the Oroville electric business earns operating expenses, depreciation, taxes, and, in addition, what this Commission would hold to be a fair return, and if a separate allowance for going concern value, in addition to the full property value otherwise found, is reasonable and justifiable at all, some such allowance should be made in this case. The question remains, how is this value to be measured, or is an arbitrary amount to be added?

The matter is presented to the Commission in this proceeding with particular clearness. The company claims going concern value for the

electric property but not for the gas property. The Oroville gas property, it is admitted, has not operated profitably for a number of years. It is a losing business and there appears to be little prospect that it can be made profitable under reasonable rates, and with the present methods of operation, in the next few years. If profitableness is held to be the test of going concern value and if the capitalization of profits is to be resorted to to measure that particular and separate value, and if the amount found by that method is to be added to the value otherwise found, it is difficult to see why the same principle and the same technique should not apply equally (with a negative result) if the property is engaged in a losing venture. To attack the present problem concretely instead of theoretically, accepting for the purpose of this calculation the testimony of witness Ryan, and assuming that the profit or net revenue from the electrical business was 8 per cent on \$90,000, the annual profit would come to \$7,200. The next question is, at what interest rate should this return be capitalized and for what period of time? In the Redding decision, referred to above, the Commission, on the subject of capitalization of profits as a measure of going concern value, said (Opinions and Orders of California Railroad Commission, Vol. 19, p. 286):

Capitalization of income, or of profits, is a problem in elementary arithmetic. In the solution of such a problem there must always enter three factors: The amount of earnings, the rate of interest, and time. In the matter before us the amount of the earnings is known, the rate of interest is not known, and the factor of time is equally unknown. The problem, therefore, can not be solved unless assumptions are made for the last two factors. The company assumes that 8 per cent should be taken as the interest rate. In the original hearing the company urged that 6 per cent should be taken as the rate of capitalization (if that were done the going-concern value as separated from the plant value would become \$132,849, instead of \$87,289, shown above).

The factor of time, in the company's conclusion, is assumed to be perpetuity. That is to say, the company expects the city of Redding to pay, in addition to the value of the plant, plus overheads, plus the cost of franchises, for all time an annual income of \$10,694.57, being 8 per cent on \$133,682.12.

The company, of course, has no assurance of any such earnings for any continuous period in the future, yet it is apparently serious in its contention that the city, if it buys the property, must guarantee a profit of 23 per cent, or more, on the value of the physical property, plus overheads, for all time to come. The city is expected to guarantee this profit, relieving the company from all responsibility and all risk.

In order to find the rate of capitalization, a "rate of risk" must be assumed. Applying "rates of risk" at 8, 7 and 6 per cent, we have the following mathematical result:

Annual net earnings of \$7,200 assumed to be equal to a "fair return":
 at 8 per cent on a rate base or a property value of \$90,000 00
 at 7 per cent on a rate base or a property value of 1,02,930 00
 at 6 per cent on a rate base or a property value of 150,000 00

These figures, according to the position of the company, include the value of all property, both physical and intangible, including the going

concern. It is to be noted, therefore, that if the rate of risk is taken to be equal to the rate of return assumed by the Commission, the "rate base" automatically becomes "value" and includes all values, both physical and intangible, including going concern. If the rate of risk is assumed to be a lesser rate than the rate of fair return, a going concern value can be created artificially which will be proportionately larger with an assumed decrease in the rate of risk.

Applying the identical methods and mathematics to the gas property, we have this result:

Valuation of physical plant.....	\$99,000 00
Profit or net return.....	0
At 0 per cent the property value becomes.....	0
An 8 per cent fair return will require annual net earnings of.....	7,920 00
Assuming an 8 per cent rate of risk, there results a negative or minus property value of	99,000 00
Assuming a 7 per cent rate of risk, there results a negative or minus property value of	113,143 00
Assuming a 6 per cent rate of risk, there results a negative or minus property value of	132,000 00

Since the corresponding figures for the electric plant included the physical property, the gas plant figures should, of course, include the physical property also. Were this theory adopted in good faith for profitable and unprofitable utilities alike, it would mean, in this case, that the company would have to pay the city of Oroville one of the amounts shown above and that the company would be justified in paying such an amount to be rid of a losing property and business.

We will, of course, continue to reject such a theory and enough has been said, I believe, to demonstrate its unsoundness and unworkability.

The other theory advanced by Mr. Ryan, for the company, substitutes development cost for going concern, and I am forced to the conclusion that it has not much of an advantage to recommend it over the theory of the capitalization of profits. An application to both the Oroville electric and gas plants will make this clear.

According to the record, Oroville has been served with electric light and power since prior to 1906. The electric property under review was acquired through purchase by its present owners in 1917 (the cost to the company for this portion of the property bought can not now be determined) and we are safe in assuming that it has been a profitable property, at least since 1917 and probably prior to that time. What the cost of developing the business by the prior owners was, if any, we do not know and the company submitted no evidence to show that such cost was incurred by the present owners. The weight of evidence is that the present company was put to no development cost. Neither do we know whether the development cost incurred, if any, was

returned through subsequent profits to the prior owners or to applicant. When, in 1917, the sale was consummated it must be taken for granted that the original owners were either compensated in the sale price for development cost or else wrote off such cost as a loss. To burden the city of Oroville, at this time, with so speculative and doubtful a charge would seem unjust and unreasonable. Further, inasmuch as the profitableness of the business since 1917 is admitted, the probabilities are that prior development costs have in fact been returned to the owners through rates. To make an allowance of going concern in the form of development cost, under these circumstances, would mean an addition to the value of property otherwise found regardless of whether development cost was actually incurred by present or past owners and regardless of whether it had been returned to them subsequently through profits contributed by the ratepayers.

The gas plant was built in 1877 and 1878 and has been in operation since that time. The plant has changed owners several times and was acquired through purchase by the present owners in 1917, together with the electric property. There is nothing in the record to show whether the gas property was ever a profitable enterprise. It was, however, not profitable at the date of this inquiry and has not been for a number of years. If business losses are called development costs, it is apparent that they have accumulated to a substantial amount in this gas property and it is also apparent that this absurd result would follow: the greater the losses from the business, the greater the development cost and, therefore, the going concern.

I am unable to accept applicant's proposals for the determination of going concern and see no reason to depart from the Commission's practice adopted in the Redding case, *supra*, in so far as the electric property is concerned. It appears that the electric properties in Redding and Oroville, with reference to going concern or "value of the business," are much alike. In this case, as in the Redding case, there is no clear showing that early development costs, if any, have in fact been returned to the owners; also, in this case, as in the Redding case, the amount of the early losses has not been definitely established, although it is probable from the nature of the business, and the conditions existing at the time it was established, that such development costs actually were incurred. I propose, therefore, to treat this matter in the same manner as it was treated in the Redding case and I adopt that method for similar reasons. The Commission in its decision (page 296, *supra*) said:

While the method which herein is suggested for determining the amount of such allowances for "development costs" is not entirely free from objections, nevertheless it is the opinion of the Commission that it is as satisfactory as any other method

that has been suggested or now can be devised, and that in the main it fairly represents an amount approximating the additional costs of attaching the business to the plant, to the extent that these costs are reflected in the item of development costs. The suggested method is to allow 2 per cent per annum, the difference between a normal return of 8 per cent and a minimum return of 6 per cent, during the assumed reasonable development period of the enterprise. * * *

The reasonable development period in this case is fixed at two years for the reason that, according to the record, there is more business in Oroville than there is in Redding and that it is a better property from the standpoint of developing business, because there are more industrial users of power at Oroville than there were at Redding (Tr. page 112). If the same method is applied in the valuation of "going concern" as in the valuation of the physical plant, that is to say, if the value of the business is to be found as of the date of the filing of the application, and if a reasonable development period for the attachment of the business to the plant prior to the date of the filing of the application is to be estimated, it is my conclusion that two years would be a sufficient length of time to attach to the Oroville electric plant such business as in fact was attached to it on August 15, 1918. The application of this rule will result in an increase of 4 per cent upon the figure found without regard to going concern value.

After a careful consideration of all of the elements and of the items going to make up the value of the electric property, I find as a fact that the just compensation for the lands, property and rights of the electric distribution system sought to be acquired by the city inside and outside the city of Oroville as of August 15, 1918, and as described in Exhibit "A" attached to this decision, is the sum of \$90,861.

Severance damage—electric property.

Severance damage is claimed because, upon the taking over of the electric property by the city, it will become necessary for the company to establish certain new electrical connections. It was suggested by the Commission's engineers, and endorsed by the city, that it would be feasible for the company to utilize the pole lines to be taken over by the city under a joint pole agreement and to meter the electric power to be used by the company for its own services, including the gas plant, in the event that the gas property is not to be acquired by the city. Such an arrangement, however, did not prove to be acceptable to the company.

Regardless of the feasibility from a physical and operating standpoint, the Commission has concluded that it does not have jurisdiction to prescribe or enforce agreements of this nature between cities and utilities and an allowance will, therefore, be made for the cost of independent connections to be owned by the company, on the assumption that such an arrangement will actually be carried out.

There are in the record two estimates of severance damage, both introduced by the company. Exhibit No. 2 appears to contemplate the purchase by the city of the gas plant, while Exhibit No. 3 appears to contemplate the retention of the gas works by the company. Inasmuch as the Commission is asked to make separate findings of just compensation for the electric properties and for the gas properties, and inasmuch as it is admitted by the company that the city may acquire either plant, or both, it will be necessary to make two findings of severance damage, one on the assumption that the gas works are taken by the city and the other assuming the retention of the gas works by the company. While it is apparent that the arrangements proposed in company's Exhibits Nos. 2 and 3, respectively, are predicated upon two different schemes, it appears that either scheme is feasible as of the date of the filing of the application and as of the date of the finding of just compensation.

I am willing to accept the company's estimate of severance damage, which has been checked by the Railroad Commission's engineers and found to be reasonable, and find as a fact that the sum of \$6,177, in addition to the just compensation heretofore found for the lands, property and rights, should be allowed in event the city elects to acquire the electric property only and the company continues the operation of its gas plant.

I find as a fact that the sum of \$1,954 should be allowed as severance damage in addition to the just compensation heretofore found for the lands, property and rights, in event the city of Oroville elects to acquire both the electric and the gas properties.

3. *Gas property.*

A description of the gas property sought to be acquired by the city is shown in Exhibit "B" attached to this decision. Inventory quantities are agreed upon. No valuation of the gas property was submitted by the company but it accepts the valuation made by the engineers of the Commission. The city also accepts that valuation but desires it understood that it is accepted as an estimate of the reproduction cost less depreciation of the physical properties merely and not as the just compensation to be paid to the company.

That the value and the amount of just compensation is affected by the fact that this property is engaged in a losing business and earning not even all its expenses of operation, without any return of the "cost of money" or "fair return," is clearly established by the record in this case. Counsel for the company, in its brief, states:

This company has accepted the valuation placed on its gas properties by the engineers of the Commission. As was stated by counsel for the company at the hearings, the gas business in Oroville, due to the increased cost of oil and increased labor costs, coupled with the small consumption of gas in that city, is not profitable

and, irrespective of the costs of construction of such a plant, the purchaser is bound to be influenced by this consideration. The city, of course, is free to purchase at this price or decline to purchase at this or any other price. The fact that the city has filed a petition to have a valuation placed on both the gas and electric properties does not make it mandatory to take both gas and electric properties if it elects to take either. It may decline to buy the gas properties and complete the purchase of the electric properties.

I have indicated, under the previous heading, to what results a calculation of going concern value would lead in the case of this gas plant if methods and mathematics were applied to this losing property the same as the company urges should be applied to the profitable electric business. In the result the gas property would be worth a great deal less than nothing. If we reject the theory in the case of a profitable business, we should equally reject it in the case of a losing concern. It is, in fact, easily demonstrable that there is a certain minimum positive value in the case of this gas property, for the reason that it can be dismantled and the bare material sold for scrap. This scrap value, after the cost of scrapping is deducted, might amount to but little, but the remainder would be the minimum that would have to be allowed, in my opinion, in a case where for a considerable length of time there had been no profits whatever and where there are no prospects of any return.

A finding of just compensation requires a consideration of all factors affecting value, regardless of whether they tend towards a higher or a lower price. No factor should be ignored and none should be exaggerated or minimized. Certain outstanding facts confront us in this gas property. The company bought, in 1917, a large electric and gas company and, taking the transaction as a whole, made a profitable purchase. This gas plant was only a very small portion of this acquisition. It was, and had been for years, a liability instead of an asset and the company was aware of that fact. Nevertheless, the undesirable small item was purchased with the desirable large items. No segregation was made in the purchase price paid between the profitable and the unprofitable portion of the property. Since the purchase this gas plant has remained a liability. While there are no exact figures in the record, the annual reports show an increasing deficit year by year, having in mind the accumulation of losses, and there appears to be no prospect of a change in this condition. The matter of rates is not at issue in this proceeding and it must be assumed that the rates are just and reasonable. If rates were increased there would probably be a reduction in the number of gas users and the loss might be greater. It is, therefore, no more than a recognition of an actual condition when the company frankly admits its desire to be relieved of the ever grow-

ing losses caused by the possession of this unprofitable property and the necessity of its continued operation.

Neither is the company in a position of its own accord to stop operation, discontinue service and put an end to the losses. This is a public utility and it may be that public necessity requires the continuation of this losing branch of its business. The company's entire business is so large that, of necessity, some operations must be carried on at a loss.

It is apparent that in a case of this kind measures of value, such as reproduction cost or historical cost, or reasonable investment or going concern (capitalized losses) fail completely and can not give an answer in any way relating to the controlling facts. The controlling facts demonstrate, from the standpoint of the company, its bondholders and its stockholders, that to the present owner this property is not an asset but a liability.

But it seems to me that these are not all of the controlling facts. From the standpoint of the city, which has instituted proceedings to acquire this property, there are other factors equally controlling. It must be assumed that if the city desires to acquire this gas plant, it does so because it considers the property of value to the city. It wishes to supply its inhabitants with gas regardless of whether the operation is carried on at a profit or at a loss. Only two means are available to the city to accomplish that end. It can either build a new plant or it has the power to acquire the existing plant by paying "just compensation." If this gas plant were no longer in existence and a new one had to be constructed, the cost to the city would certainly be an amount larger than the value of the present plant plus the cost of placing it in first-class operating condition. The city has elected to make use of its power of eminent domain and under this power it can force the company to sell. It is conceivable that the city and the company might negotiate without recourse to the law and without each party maintaining its legal rights and it is conceivable that the company of its free will might make a gift of this plant to the city and that the city might accept that gift. But in such negotiations this Commission would have no legal function and such a situation does not confront us in this proceeding. We are required to determine the "just compensation," just both to the seller and the buyer.

From the standpoint of the city, in my opinion, the fair value must lie between, as the lower limit, the salvage value of the property and, as the upper limit, the depreciated cost of the property minus certain deductions. The city could afford to pay a sum of money upon which it might be able to earn fixed charges after the payment of all necessary operating expenses. The data in the record is insufficient to determine with accuracy what such a sum will be. It is a fact, however, that in

the event of municipal ownership and operation, considerable savings can be made by the city which it is impossible for the company to bring about. The city would not pay taxes. This item for the year 1918 would amount to over \$1,100. The interest on the investment, that is to say the cost of money, would of necessity be much less burdensome to the city than it is to the company; not only because the amount of investment would be less, but also because the cost of money to the municipality would be at least 2 per cent less than the cost to the company. This saving might make a difference on the basis of the 1918 figures in favor of the city of as much as \$4,500. The city could make considerable savings in overhead and possibly in the charges for depreciation. The total savings in 1918 should certainly have amounted to more than \$5,000 and in each subsequent year the saving would be increasingly larger. It is possible, therefore, that under city ownership and operation, and even under present rates, this losing property might be turned into a self-sustaining enterprise.

The value of this property to the city, it will be noted, also bears no relation to the estimates of cost of reproduction or reproduction cost less depreciation and, as in the case of the value to the company, such measures of value do not apply.

This case, as to the gas property, is in some respects analogous to the proceeding of the city of Eureka to acquire the street railway system, decided by this Commission in Decision No. 9020 (Opinions and Orders of the California Railroad Commission, Vol. 19, page 952). That property was a losing concern and did not earn more than operating expenses. The Commission said (page 957, *supra*):

If this property were, at this time, able to earn its way, including a fair return on a proper rate base or if, in the recent past, it had been able to earn its operating expenses plus a fair return; or if there were reasonable prospects of such a condition being brought about in the future, the fair value of the property, in my opinion, could not be less than its reproduction cost less depreciation plus a reasonable development cost (assuming that such development cost had not been returned to the utility out of earnings over and above fair return). Such a condition, however, does not exist in this case. It is established that for at least ten years the company has carried on its street railway operations at a loss. The testimony of the Commission's chief engineer and of the company's general manager is unanimous that there is no reasonable prospect of this property making even operating expenses plus taxes and depreciation in the future. There is uncontradicted testimony that the most economical step for the company to take, in case the city does not buy this property, is discontinuance of operation and the salvaging of the scrap.

I am satisfied, nevertheless, that the present fair value is considerably higher than the mere scrap value. The city, if it should buy, will acquire an operating plant. I see no reason why, under municipal ownership and operation, the street railway system should not earn all of its expenses and prove a valuable asset to the city. The city will be relieved from important expense items which the privately owned and operated utility can not avoid. The largest of these are taxes, certain overhead expenses and street paving costs. While these matters, perhaps, have no immediate bearing on the present value of this property, they go to show that in acquiring this street railway the city would not in any sense acquire a worthless property.

I think it is also proper for me to say in this connection that discontinuance of street railway operations in Eureka would, without question, result in serious direct and indirect losses to the community and there appears to be no possibility, at this time, of a substitute for an electric street railway that can furnish equally satisfactory service at an equal cost. Should the city not buy and this property be scrapped and should, thereafter, the city find it necessary to build a system of its own, it is apparent that a reasonable satisfactory street railway plant would cost at least \$300,000. It would unquestionably be more economical for the city to acquire the existing property at a reasonable price and thereafter rehabilitate the system in such manner as the city might desire.

Some of the facts referred to in the quotation above hold true for the Oroville gas property; others are different. The present proceeding does not as clearly establish the extent and the period of losses from operation and there is nothing in the present record to show that the Oroville gas plant, even if unable in the future to earn operating expenses, should be scrapped.

Basing my conclusions on the facts and circumstances discussed in this opinion, I find as a fact that the just compensation to be paid to the Pacific Gas and Electric Company for the gas property sought to be acquired by the city of Oroville, as described in Exhibit "B" attached hereto, is the sum of \$50,000.

There is no severance damage relating to the gas property.

I submit the following:

FINDINGS AND ORDER.

The city of Oroville, a municipal corporation, having filed with the Commission a petition setting forth the intention of the city to acquire under eminent domain proceedings, or otherwise, certain specifically described parts or portions of lands, property and rights of the Pacific Gas and Electric Company, a public utility, and asking the Commission to fix and determine the just compensation to be paid to the Pacific Gas and Electric Company for said lands, property and rights; the Commission having proceeded under the provision of section 47 of the Public Utilities Act to fix and determine the just compensation to be paid by said city of Oroville to said Pacific Gas and Electric Company for said lands, property and rights; public hearings having been held; the parties hereto having been accorded full opportunity for the presentation of whatever evidence they desired to introduce; briefs having been filed; this proceeding having been submitted and the Commission being fully advised in the matter, the Commission hereby makes its findings as follows:

1. The Commission finds as a fact that the just compensation to be paid by the said city of Oroville to Pacific Gas and Electric Company for that part and portion of said company's lands, properties and rights, not including severance damage, and embracing the electric distribution system in the city of Oroville and adjacent territory, which said lands,

properties and rights are described in Exhibit "A" and made a part of the findings herein, is the sum of \$90,861.

2. The Commission finds as a further fact that the lands, properties and rights, appertaining to the electric distribution system, and the parts and portions thereof which the city of Oroville seeks to acquire were, at the time of the findings of the Commission herein, used by the Pacific Gas and Electric Company in connection with other property and rights not sought to be acquired by said city, and constitutes in connection therewith a larger system used by said Pacific Gas and Electric Company for the generation, distribution and sale of electricity; and that by reason of the taking of said lands, properties and rights and the parts and portions thereof sought to be acquired by said city a severance damage will result to the lands, properties and rights of said Pacific Gas and Electric Company which are not sought to be acquired by said city; and the Commission hereby finds the amount of said severance damage to be:

(a) In the event that said city of Oroville shall elect to acquire both the electric property and the gas property, as described in Exhibits "A" and "B," respectively, and made a part of these findings, the sum of \$1,954;

(b) In the event that said city of Oroville shall elect to acquire the electric distribution system only, as described in Exhibit "A" and made a part of these findings, the sum of \$6,177.

3. The Commission finds as a further fact that the just compensation to be paid by said city of Oroville to Pacific Gas and Electric Company for that part and portion of said company's lands, properties and rights embracing the gas properties in the city of Oroville and adjacent territory, which said lands, properties and rights are described in Exhibit "B" and made a part of the findings herein, is the sum of \$50,000.

4. The Commission hereby finds as a further fact that no severance damage attaches to the gas property referred to under subdivision 3 of these findings and order.

The foregoing opinion, findings and order, together with Exhibits "A" and "B" attached hereto, are hereby approved and ordered filed as the opinion, findings and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this sixteenth day of June, 1922.

CALIFORNIA RAILROAD COMMISSION.

Exhibit "A," Accompanying Decision No. 10590, Application No. 4019.

Description of lands, properties and rights and parts and portions thereof sought to be acquired by the city of Oroville, and comprising the electric distribution system of the Pacific Gas and Electric Company in the city of Oroville and adjacent territory, as described in the detailed inventory of property listed in the report of the engineering department of the Railroad Commission of the State of California, dated January 14, 1919, and in evidence in these proceedings as Commission's Exhibits Nos. 1 and 2 and as modified by amended petition of the city of Oroville of January 15, 1919, and by amendment of October 5, 1921, and by stipulation entered into between the Pacific Gas and Electric Company and the city of Oroville on October 5, 1921.

Description of Electric Property—Land Devoted to Electric Operations—Located in City of Oroville.

Location and description of tracts: Portion of block 38, City of Oroville. Fronting 39 feet on the east side of Huntoon street with a depth of 36 feet. The southerly line being parallel to and 225 feet from the north line of Montgomery street. Described more particularly as follows:

Beginning at a point in the easterly property line of Huntoon street, City of Oroville, County of Butte, State of California. Said point of beginning being two hundred and twenty-five feet northerly and measured along the said easterly property line of Huntoon street, from the intersection of the northerly property line of Montgomery street and the said easterly property line of Huntoon street, thence easterly at right angles to Huntoon street thirty-six feet, thence northerly, parallel to Huntoon street thirty-nine feet, thence westerly at right angles to Huntoon street thirty-six feet to the said easterly property line of Huntoon street, thence southerly along the said easterly property line of Huntoon street thirty-nine feet to the point of beginning.

Date of purchase: Unknown

Purpose for which used or acquired: Site for building.

Dimensions: 39' x 36'.

Area: 1404 square feet.

Description of Electric Property, Poles and Fixtures, Located in City of Oroville.

Types, sizes, quantities, etc.	Proportion and division of ownership (per cent)	Unit	Number of units
Poles—round cedar, 20 feet-----	100	Each	2
Poles—round cedar, 25 feet-----	100	Each	30
Poles—round cedar, 30 feet-----	100	Each	67
Poles—round cedar, 35 feet-----	100	Each	222
Poles—round cedar, 40 feet-----	100	Each	114
Poles—round cedar, 45 feet-----	100	Each	3
Poles—round cedar, 50 feet-----	100	Each	1
Poles—round cedar, 55 feet-----	100	Each	1
Poles—round cedar, 60 feet-----	100	Each	2
Poles—round cedar, 65 feet-----	100	Each	1
Poles—square redwood, 20 feet-----	100	Each	2
Poles—square redwood, 25 feet-----	100	Each	13
Poles—square redwood, 30 feet-----	100	Each	36
Poles—square redwood, 35 feet-----	100	Each	13
Poles—square fir, 6" x 8", 25 feet-----	100	Each	3
Poles—painting, 25 feet-----	100	Each	1
Poles—painting, 30 feet-----	100	Each	7
Poles—painting, 35 feet-----	100	Each	43
Poles—painting, 40 feet-----	100	Each	68
Poles—concrete set-----	100	Each	7
Poles—with sidewalk setting-----	100	Each	54
Poles—tins -----	100	Each	27

Items, with detailed description	Proportion and division of ownership (per cent)	Unit	Number of units
Poles—stepped	100	Each	239
Crossarms, 4" x 6" x 7"	100	Each	635
Crossarms, 4" x 6" x 5'	100	Each	419
Crossarms, 3" x 4" x 3'	100	Each	232
Insulator pins—wood	100	Each	3,061
Insulator pins—iron	100	Each	27
Brackets—wood	100	Each	87
Brackets—iron, special	100	Each	1
Brackets—iron, special	100	Each	3
Crossarm braces, $\frac{1}{4}$ " x $1\frac{1}{4}$ " x 28"	100	Each	1,829
Bolts, through, $\frac{1}{8}$ " x 14"	100	Each	1,164
Bolts, spacing, $\frac{1}{8}$ " x 18"	100	Each	210
Bolts, brace, $\frac{1}{8}$ " x 3" (lags)	100	Each	1,843
Bolts, lag, $\frac{1}{8}$ " x 3" (heel bolts)	100	Each	1,103
Bolts, eye, $\frac{1}{8}$ " x 8"	100	Each	39
Guy clamps	100	Each	37
Guy guards	100	Each	16
Anchors, slug and rod	100	Each	70
Guys, 5/16", average length 61 feet	100	Each	66
Guys, No. 9, average length 104 feet	100	Each	68
Meter boxes	100	Each	3
Meter boxes	100	Each	2
Meter boxes	100	Each	4
Oil switch boxes	100	Each	2
Insulated platform	100	Each	1
Insulated platform	100	Each	1
Insulated platforms and ladders	100	Each	2
Floor flanges, 2-inch	100	Each	2
Pipe tee, 2-inch	100	Each	1
Pipe, black, 2-inch	100	1 ft.	25
Rough fir lumber	100	M bd. ft.	1,343
Extra work on delivery of poles over rock piles	100	Each	14
Extra time digging rock pile holes	100	Each	14

Description of Electric Property—Overhead System—Located in City of Oroville.

Wire—D. B. weatherproof copper, No. 10	100	1000 ft.	2,325
Wire—D. B. weatherproof copper, No. 8	100	1000 ft.	102,057
Wire—D. B. weatherproof copper, No. 6	100	1000 ft.	74,175
Wire—D. B. weatherproof copper, No. 4	100	1000 ft.	21,455
Wire—D. B. weatherproof copper, No. 2	100	1000 ft.	8,650
Wire—D. B. weatherproof copper, No. 0	100	1000 ft.	4,150
Wire—D. B. weatherproof copper, No. 00	100	1000 ft.	5,045
Wire—bare copper, No. 8	100	1000 ft.	1,900
Wire—bare copper, No. 6	100	1000 ft.	6,705
Wire—bare copper, No. 4	100	1000 ft.	1,730
Wire—bare aluminum, equivalent of No. 6	100	1000 ft.	2,250
Insulators—D. G. D. P., glass	100	Each	2,906
Insulators—cable type, porcelain	100	Each	75
Insulators—11 K. V., porcelain	100	Each	15
Insulators—17 K. V.	100	Each	61
Insulators—strain	100	Each	494
Wire and miscellaneous material at rock crusher	100		
Wire and miscellaneous material at Boston machine shop	100		
Wire and miscellaneous material at septic tank	100		
Underground crossing 60 K. V. line Marysville ave.	100		
Black pipe, 1-inch	100	100 ft.	1.30

Items, with detailed description	Proportion and division of ownership (per cent)	Unit	Number of units
Black elbows, 1-inch-----	100	Each	4
Black nipples, 1-inch-----	100	Each	2
Trench, 24-inch-----	100	Foot	100
Wire—R. C. No. 6 copper-----	100	100 ft.	2.60
Wire—R. C. No. 10 copper-----	100	100 ft.	1.50
Wire—R. C. No. 8 copper-----	100	100 ft.	8.20
Wire—R. C. No. 6 copper-----	100	100 ft.	28.45
Wire—R. C. No. 4 copper-----	100	100 ft.	7.50
Wire—R. C. No. 1 copper-----	100	100 ft.	2.50
Conduit—1-inch-----	100	Foot	30
Conduitlets—1-inch, type F-----	100	Each	4
Porcelain knobs with screws-----	100	Each	523

**Description of Electric Property—Substation Buildings and General Structures—
Located in City of Oroville.**

General description—number of stories, basement, material of which constructed, kind of roof, floor, interior finish, etc.

Items, dimensions, areas; quantities, etc.

Old sub-station building, one story, with one second floor room. Wooden frame, corrugated iron and brick, hip roofs, concrete floor. Now used as garage, warehouse and testing room-----

31' x 21' x 16' to eaves.

Electrical store room, corrugated iron lean-to, with plank floor-----

31' x 14' x 14' high.

Gasoline and oil house, concrete, corrugated iron door-----

7' x 6' 6" x 9' 6" high.

**Description of Electric Property—Line Transformers and Devices—Located in
City of Oroville.**

General description	Make	Voltage, K. V.		K. W. or K. V. A.	Phase and frequency	Number of each
Transformer pole type	G. E.	2200	220/110	.6	Single 60 Cy.	7
Transformer pole type	G. E.	2200	220/110	1	Single 60 Cy.	5
Transformer pole type	G. E.	2200	220/110	1½	Single 60 Cy.	5
Transformer pole type	G. E.	2200	220/110	2	Single 60 Cy.	2
Transformer pole type	G. E.	2200	220/110	2½	Single 60 Cy.	5
Transformer pole type	G. E.	2200	220/110	3	Single 60 Cy.	16
Transformer pole type	G. E.	2200	220/110	4	Single 60 Cy.	5
Transformer pole type	G. E.	2200	220/110	5	Single 60 Cy.	53
Transformer pole type	G. E.	2200	220/110	7½	Single 60 Cy.	17
Transformer pole type	G. E.	2200	220/110	10	Single 60 Cy.	18
Transformer pole type	G. E.	2200	220/110	15	Single 60 Cy.	6
Transformer pole type	G. E.	2200	220/110	20	Single 60 Cy.	3
Transformer pole type	W. E. & M.	2200	220/110	3	Single 60 Cy.	4
Transformer pole type	W. E. & M.	2200	220/110	5	Single 60 Cy.	1
Transformer pole type	W. E. & M.	2200	220/110	20	Single 60 Cy.	2

Items, with detailed description	Unit	Number of each
G. E. cut outs, No. 51874.....	Each	73
G. E. cut outs, No. 51874, less plugs.....	Each	23
Oil switch, pole type, 100 amp., 6600 volts, W. E. & M.....	Each	4
Oil switch, swbd. type, 100 amp., 6600 volts, W. E. & M.....	Each	2
Cut outs, 50 amp., 2500 volts.....	Each	3
Cut outs, 50 amp., 6600 volts.....	Each	6
Cut outs, 50 amp., 1100 volts.....	Each	3

Description of Electric Property—Electric Services—Located in City of Oroville.

General description of conductors, insulation ducts, supports, etc.	Wire Size	No.	Av. length in feet	Bare or W. P.	Number of each
Double braid, weatherproof.....	No. 8	2	100	W. P.	869
Double braid, weatherproof.....	No. 6	3	100	W. P.	69
Double braid, rubber covered....	No. 10	2	10	R. C.	64
Double braid, rubber covered....	No. 10	2	20	R. C.	15

Underground services	Unit	Number of each
Pipe, black, 4-inch.....	100 ft.	1.15
Trench, 18-inch.....	Foot	80
Wire, R. C., No. 6 copper.....	100 ft.	2.40
Condulet, 4-inch, type FF.....	Each	1
Pipe, black, 1½-inch.....	100 ft.	.55
Trench, 18-inch.....	Foot	30
Wire, R. C., No. 6 copper.....	100 ft.	2.40
Pipe, black, 1½-inch.....	100 ft.	.80
Condulet, 1½-inch, type F.....	Each	1
Wire, R. C., No. 6 copper.....	100 ft.	2.60
Pipe, black, 2-inch.....	100 ft.	.80
Trench, 18-inch.....	Foot	35
Wire, R. C., No. 4 copper.....	100 ft.	2.60
Condulet, 2-inch, type F.....	Each	1
Material used and necessary labor to rearrange house wiring at time the city of Oroville was metered.....	Install.	710

Description of Electric Property—Meters—Located in City of Oroville.

Full description	Make	Type	No. of Amper- wire age	Phase and frequency	Volts	A. O. D. U.	No. of each
Meters—							
Thomson high torque	G. E.	I	2	3	Single	110 A.C.	3
Thomson watt-hour...	G. E.	I 10	2	5	Single	110 A.C.	765
Thomson watt-hour...	G. E.	I 10	2	10	Single	110 A.C.	110
Thomson high torque	G. E.	I	2	15	Single	110 A.C.	65
Westinghouse single phase	W. E. & M.	O. A.	2	20	Single	110 A.C.	1
Thomson high torque	G. E.	I	2	25	Single	110 A.C.	31
Westinghouse single phase	W. E. & M.	O. A.	2	40	Single	110 A.C.	1
Thomson high torque	G. E.	I	2	50	Single	110 A.C.	6
Thomson polyphase..	G. E.	D3	3	15	Poly.	220 A.C.	1
Thomson polyphase..	G. E.	D3	3	25	Poly.	220 A.C.	2
Thomson polyphase..	G. E.	D3	3	100	Poly.	220 A.C.	1
Westinghouse watt- hour demand	W. E. & M.	R. O.	4	5	Poly.	110 A.C.	2
Transformers—potential, 2200/110 volts.....							Number of each 9
Transformers—current 10/5 amperes.....							3
Transformers—current 15/5 amperes.....							10
Transformers—current 20/5 amperes.....							6
Transformers—current 40/5 amperes.....							10
Transformers—current 60/5 amperes.....							4
Transformers—current 100/5 amperes.....							3

Description of Electric Property—Municipal Street Lighting System—Located in City of Oroville.

Items, with detailed description	Unit	Number of units
Multiple arc lamp on span suspension.....	Each	4
Mazda type C lamp on span suspension.....	Each	8
Mazda type B lamp on span suspension.....	Each	3
Mazda type B lamp on gooseneck bracket.....	Each	142

Description of Electric Property—Telephone Lines—Located in City of Oroville.

Items, with detailed description	Proportion and division of ownership (per cent)	Unit	Number of units
Wire—bare, No. 12, iron.....	100	1000 ft.	11.6

Description of Electric Property—Land Devoted to Electric Operations—Located Outside of City of Oroville.

Location and description of tracts: Easements for 108 poles.
Purpose for which used or acquired: Pole line.

Description of Electric Property—Poles and Fixtures—Located Outside of City of Oroville.

Types, sizes, quantities, etc.	Proportion and division of ownership (per cent)	Unit	Number of units
Poles—round cedar, 20 feet.....	100	Each	8
Poles—round cedar, 25 feet.....	100	Each	34
Poles—round cedar, 30 feet.....	100	Each	26
Poles—round cedar, 35 feet.....	100	Each	97
Poles—round cedar, 40 feet.....	100	Each	66
Poles—square redwood, 20 feet.....	100	Each	1
Poles—square redwood, 25 feet.....	100	Each	14
Poles—square redwood, 30 feet.....	100	Each	3
Poles—square redwood, 35 feet.....	100	Each	2
Poles—painting, 30 feet.....	100	Each	1
Poles—painting, 35 feet.....	100	Each	1
Poles—stepped.....	100	Each	31
Crossarms—4" x 6" x 7'.....	100	Each	129
Crossarms—4" x 6" x 5'.....	100	Each	264
Crossarms—3" x 4" x 3'.....	100	Each	60
Insulator pins—wood.....	100	Each	1,105
Insulator pins—iron.....	100	Each	154
Brackets—wood.....	100	Each	4
Crossarm braces—1" x 1 1/4" x 28".....	100	Each	748
Bolts, through, 1/2" x 14".....	100	Each	412
Bolts, spacing, 1/2" x 18".....	100	Each	72
Bolts, brace, 1/2" x 3" (lags).....	100	Each	753
Bolts, lag, 1/2" x 3" (heel bolts).....	100	Each	409
Bolts, eye, 1/2" x 8".....	100	Each	33
Bolts, eye, 1/2" x 18".....	100	Each	13
Guy clamps.....	100	Each	14
Guy guards.....	100	Each	14
Anchors, slug and rod.....	100	Each	82
Guys—7/16", average length 58 feet.....	100	Each	39
Guys—5/16", average length 55 feet.....	100	Each	33
Guys—No. 9, average length 60 feet.....	100	Each	18
Meter box.....	100	Each	1
Meter boxes.....	100	Each	2
Oil switch boxes.....	100	Each	1
Insulated platform.....	100	Each	2
Rough fir lumber.....	100	M bd. ft.	4927
Extra work on delivery of poles over rock piles..	100	Each	127
Extra time digging rock pile holes.....	100	Each	127

Description of Electric Property—Overhead System—Located Outside of
City of Oroville.

Items, with detailed description	Proportion and division of ownership (per cent)	Unit	Number of units
Wire—D. B. weatherproof copper, No. 10.....	100	1000 ft.	.450
Wire—D. B. weatherproof copper, No. 8.....	100	1000 ft.	11.015
Wire—D. B. weatherproof copper, No. 6.....	100	1000 ft.	13.372
Wire—D. B. weatherproof copper, No. 4.....	100	1000 ft.	1.380
Wire—D. B. weatherproof copper, No. 00.....	100	1000 ft.	20.865
Wire—bare copper, No. 8.....	100	1000 ft.	9.475
Wire—bare copper, No. 6.....	100	1000 ft.	3.900
Wire—bare copper, No. 4.....	100	1000 ft.	31.265
Wire—bare copper, No. 00.....	100	1000 ft.	39.234
Wire—bare aluminum, equivalent of No. 8.....	100	1000 ft.	7.100
Wire—bare aluminum, equivalent of No. 6.....	100	*1000 ft.	1.050
Wire—5/16-inch, 7-strand galvanized steel.....	100	1000 ft.	.500
Insulators—D. G. D. P., glass.....	100	Each	731
Insulators—cable type, porcelain.....	100	Each	342
Insulators—11 K. V., porcelain.....	100	Each	6
Insulators—strain, Thomas No. 1055.....	100	Each	13
Insulators—strain.....	100	Each	136
Wire and miscellaneous material at Swayne Lum- ber Company.....	100		
Underground crossing G. W. P. Co., Pleasant Valley road—			
Black pipe—1-inch.....	100	100 ft.	1.25
Black elbows—1-inch.....	100	Each	4
Black nipples—1-inch.....	100	Each	2
Trench—18-inch.....	100	Foot	100
Wire—R. C., No. 6 copper.....	100	100 ft.	2.50
Underground crossing G. W. P. Co., Wyandotte road—			
Black pipe—1-inch.....		100 ft.	1.60
Trench—18-inch.....		100 ft.	.80
Wire—R. C., No. 6 copper.....		100 ft.	4.80

Description of Electric Property—Line Transformers and Devices—Located Outside of
City of Oroville.

General description	Make	Voltage, K. V.		K. W. or K. V. A.	Phase and frequency	Number of each
Transformer—pole type....	G. E.	2200	220/110	.6	Single 60 Cy.	5
Transformer—pole type....	G. E.	2200	220/110	1	Single 60 Cy.	3
Transformer—pole type....	G. E.	2200	220/110	1½	Single 60 Cy.	2
Transformer—pole type....	G. E.	2200	220/110	2	Single 60 Cy.	1
Transformer—pole type....	G. E.	2200	220/110	2½	Single 60 Cy.	1
Transformer—pole type....	G. E.	2200	220/110	3	Single 60 Cy.	6
Transformer—pole type....	G. E.	2200	220/110	5	Single 60 Cy.	6

	Unit	Number of each
G. E. cut outs, No. 51874.....	Each	11
Oil switch, pole type, 100 amp., 6600 volts, W. E. & M.....	Each	1
Oil switch, swbd. type, 100 amp., 6600 volts, W. E. & M.....	Each	1
Cut outs, 10 amp., 2200 volts.....	Each	3
Cut outs, 50 amp., 11,000 volts.....	Each	3
Lightning arrester, pole type.....	Each	1
Transformer ground—pipe, gal. ½-inch, 5 ft., wire, bare, No. 8 copper, 30 feet.		

Description of Electric Property—Electric Services—Located Outside of City of Oroville.

General description of conductors, insulation ducts, supports, etc.	Wire Size	No.	Average length in feet	Bare or W. P.	Number of each
Double braid, weatherproof.....	No. 8	2	100	W. P.	109
Double braid, weatherproof.....	No. 6	3	100	W. P.	7

Description of Electric Property—Meters—Located Outside of City of Oroville.

Full description	Make	Type	No. of wire	Amperage	Phase and frequency	Volts	A. C. D. C.	No. of each
Thomson watt-hour meter	G. E.	I 10	2	5	Single	110	A. C.	92
Westinghouse watt-hour demand meter,	W. E. & M.	R. O.	4	5	Poly.	110	A. C.	1

Transformers—potential, 2200/110 volts.....	Number of each
Transformers—current, 75/5 amperes.....	2
	3

Description of Electric Property—Municipal Street Lighting System—Located Outside of City of Oroville.

Items, with detailed description.	Unit	Number of units
Mazda type B lamp on gooseneck bracket.....	Each	20

Description of Electric Property—Telephone Lines—Located Outside of City of Oroville.

Items, with detailed description	Proportion and division of ownership (per cent)	Unit	Number of units
Poles—square redwood, 6" x 6", 20 feet.....	50	Each	33
Poles—round cedar, 30 feet.....	50	Each	1
Poles—round cedar, 35 feet.....	50	Each	2
Crossarms—4" x 6" x 7'	50	Each	4
Crossarms—4" x 6" x 5'	50	Each	72
Insulator pins—wood	50	Each	137
Anchors—slug and rod.....	50	Each	7
Guys—No. 9, average length 64 feet.....	50	Each	7
Crossarm braces—1" x 1 1/2" x 28"	50	Each	138
Bolts, through, 1" x 14".....	50	Each	69
Bolts, brace, 1" x 3" (lags).....	50	Each	138
Bolts, lag (heel bolts).....	50	Each	69
Insulator pony glass.....	100	Each	68
Insulator strain	100	Each	32
Wire—bare, No. 12, iron.....	100	1000 ft.	14.478
Pipe—black, 1"	50	100 ft.	7.30
Trench—18-inch	50	Foot	240
Twisted pair R. C., No. 15 copper.....	50	100 ft.	9.50
Telephone drops	100	Each	5
Telephone—Kellogg wall sets.....	100	Each	5
Extra work on delivery of poles and rock pile setting	50	Each	36

CALIFORNIA RAILROAD COMMISSION.

Exhibit "B," Accompanying Decision No. 10590, Application No. 4019.

Description of lands, properties and rights sought to be acquired by the city of Oroville and comprising *the gas properties of the Pacific Gas and Electric Company in the city of Oroville and adjacent territory*, as described in the detailed inventory of property listed in the report of the engineering department of the Railroad Commission of the State of California, dated January 14, 1919, and in evidence in these proceedings as Commission's Exhibit No. 3, and as modified in the opinion preceding the findings and order of this decision.

Description of Gas Property—Land Devoted to Gas Operations—Located at Oroville.

Date of purchase: Unknown.

Purpose for which used or acquired: Gas generating plant.

Dimensions and area: 125' x 36', 4500 sq. ft.; 164' x 64.25', 10,537 sq. ft.; total area 15,037 sq. ft.

Portion of lots 3 and 4, block 38, city of Oroville. An irregular shaped piece. Beginning at a point in the east property line of Huntoon street one hundred feet north of the north line of Montgomery street, thence northerly along the east property line of Huntoon street one hundred and twenty-five feet, thence easterly at right angles to Huntoon street thirty-six feet, thence northerly parallel to Huntoon street thirty-nine feet, thence easterly at right angles to Huntoon street sixty-four and twenty-five hundredths feet, thence southerly parallel to Huntoon street one hundred and sixty-four feet, thence westerly, at right angles to Huntoon street, one hundred and twenty-five hundredths feet to the point of beginning.

Description of Gas Property—Gas Plant Buildings and General Structures—Located at Oroville.

General description, number of stories, basement, material of which constructed, kind of roof, floor, interior finish, etc.	Items, dimensions, areas, quantities, etc.
Generator building—	51' 9" x 37' 11" x 24' 3" to under
One story, part concrete and part brick, steel frame with corrugated iron roof, concrete floor, no basement.	side of truss.
Excavation	44.8 cubic yards.
Concrete foundation	29.7 cubic yards.
Concrete walls	57.6 cubic yards.
Brick	47.412 thousand.
Structural steel	9804 pounds.
Corrugated iron	26.6 squares.
4' 0" x 5' 6" window and frame.....	Two.
5' 5" x 8' 6" wooden door and frame.....	One.
2' 10" x 6' 6" wooden door and frame.....	One.
Skylight, louvres, ladder and railing.	
6" concrete floor.....	1220 sq. ft.
Warehouse and works office—	
One story with one room on second floor.	
Brick wall, wooden frame, corrugated iron and tar paper roof. No basement.....	62' 6" x 51' 8" x 17' 0" high.
Lumber	13.611 M bd. ft.
Tongue and grooved.....	26.05 squares.
Rustic	5.00 squares.
Brick	32.742 thousand.
Corrugated iron	49.22 squares.
Concrete floor	312 sq. ft.
2' 10" x 5' 0" window and frame.....	Three.
3' 0" x 6' 0" window and frame.....	One.
2' 10" x 6' 10" door.....	One.
Screen door	One.
Toilet and plumbing.	
Purifier building—	
Platform with one end sheltered with corrugated iron roof and sides.....	37' 4" x 37' 4" x 8' 0" high.

General description, number of stories, basement, material of which constructed, kind of roof, floor, interior finish, etc.	Items, dimensions, areas, quantities, etc.
Lumber	7.967 M bd. ft.
Corrugated iron	13.8 squares.
Concrete foundation	2.1 cubic yards.
Concrete floor	765 sq. ft.
Shower and basin.	
Blacksmith shop.....	15' 6" x 12' 0" x 10' 0" high.
Corrugated iron lean-to.	
Corrugated iron	5.35 squares.
Lumber	45 M bd. ft.
Screen and hardware.	

Description of Gas Property—Holders—Located at Oroville.

Location and general description	Quantities, items, dimensions, etc.
Storage holder	Capacity 16,500 cubic feet.
Two lifts, concrete tank.	
Holder, steel girders.....	24.183 pounds.
Excavation	207 cubic yards.
Concrete	119 cubic yards.
Reinforcing steel	3125 pounds.
Iron wire	500 pounds.
Forms	3410 square feet.
Painting	3480 square feet.
Water in tank.	
Cast iron standpipe and fittings.	
Relief holder	Capacity 9000 cubic feet.
Single lift, wooden tank.	
Holder steel	8134 pounds.
Excavation	478 cubic yards.
Concrete around the tank.....	15.7 cubic yards.
Painting	1902 square feet.
Wooden tank.	
Water in tank.	
Wrought iron standpipe and fittings.	

Description of Gas Property—Furnaces, Boilers and Accessories—Located at Oroville.

Location and general description	Quantities, items, dimensions, etc.
Return tubular boiler with stack and breeching installed	60 H. P. 5' 0" dia., 16' 0" long.
Brick setting, foundation.....	6.8 cubic yards.
Return tubular boiler with stack and breeching installed	15 H. P. 3' 0" dia., 9' 0" long.
Brick setting, foundation.....	2.7 cubic yards.
Locomotive boiler disconnected (Joshua Hendy) 36" dia. x 14' 9" long.	
Sturtevant blower	No. 4 Monogram (2).
Sturtevant blower	No. 3 Monogram (1).
General Electric motor with starting switch.....	5 H. P.
Horizontal steam engine (Climax).....	7½ H. P.
Leather belt, 4" S. P.	14 ft. long.
Leather belt, 4" S. P.	30 ft. long.
Blast piping, valves and fittings.....	10 feet.
Fairbanks Morse Duplex pumps.....	4½" x 3" x 4" (2).
Oil heater	17" dia., 4' 0" high.
Engine foundation	1.5 cubic yards.
Oil pumps foundation.....	1.67 cubic yards.
Oil pumps foundation steel.....	Two 6" I beams 4' 6".
Steel support for blowers (No. 4).	
Covering for smoke consumer fan on roof.	
Smoke consumer, brick lined, with concrete steel bands, angle iron corners and 4" drain pipe.	
Sump for smoke consumer.....	1.4 cubic yards.
Drain for sump.....	16 ft. black pipe, 85 ft. riveted pipe.
Operators table.	

Description of Gas Property—Gas Generators—Located at Oroville.

Location and general description	Quantities, items, dimensions, etc.
No. 1 oil gas set.....	Capacity 100,000 cubic feet.
Primary generator	1' 9" dia. x 14' 0".
Secondary generator	4' 0" dia. x 20' 0".
Wash box	5' 0" dia. x 3' 0".
Total steel	6892 pounds.
Cast iron doors and fittings.	
Stack.	
Brick	7,000 M.
Foundation.	
Meter stand and coil piping.	
No. 2 oil gas set.....	Capacity 40,000 cubic feet.
Primary generator.....	3' 9" dia. x 13' 9".
Secondary generator	3' 0" dia. x 16' 3".
Wash box	4' 0" dia. x 3' 0".
Total steel	4796 pounds.
Cast iron doors and fittings.	
Stack.	
Brick	1,200 M.
Foundation.	
Meter stand and coil piping.	

Description of Gas Property—Purification Apparatus—Located at Oroville.

Location and general description	Quantities, items, dimensions, etc.
Scrubbers and connections—	
Scrubbers	4' 0" dia. x 18' 0".
Steel	2997 pounds.
Cast iron door fittings.	
Foundations.	
Total for one unit.	
Second unit.	
Purifiers—	
I beam	One 6-inch 29' 0".
One-ton Yale & Towne triplex blocks.....	One.
Cast iron purifiers with steel top.....	10' 5" x 10' 5" x 5' 3" deep.
Second unit—	
Concrete foundations and excavation.....	28 cubic yards.
Oxide—200 cubic feet each purifier.....	Two units.
Standard center seals, 10-inch.....	Two.

Description of Gas Property—Accessory Equipment at Works—Located at Oroville.

Location and general description	Quantities, items, dimensions, etc.
Lampblack separator and overflow piping.	
Oil tank (under floor) wooden.....	10,000 gallons.
Tank lined with concrete 9" thick.....	13' 8" dia. x 11' 2" deep.
Oil tanks 1" galvanized iron.....	6' 2½" dia., 9' 9" high (2).
Wooden platform for oil tanks.....	7' 0" x 14' 0", 2" x 12" plank, 6" x 6" posts.
Douglas drip pumps, 1½".....	Four.
Wilbraham Green exhaustor.....	6-inch.
G. E. motor.....	5 horsepower.
Leather belt, 4" S. P.....	18 feet long.
G. E. motor, drill press and grindstone.	
Leather belt, 4" S. P.....	12 feet long.
Wall drill press.	
Emerson washer	5' 5" x 4' 0" x 3' 0" deep
Foundation for emersion washer.....	2.1 cubic yards.
Steel tank, 3' dia. x 8' 2" x 3/16" thick, 2" x 2" x 1"	
angle iron on end.....	773 pounds.

Location and general description	Quantities, items, dimensions, etc.
Old lampblack separators.	
Pipe through levee, 40 feet.....	6" gate valve, 10 ft. 6" black
Yard piping.	pipe, 30 ft. 10" vitrified pipe.
Pipe.	
Valves.	
Fittings.	
Chapman Fulton regulator.....	8-inch.
Labor for installation.	
Electrical wiring.	

Description of Gas Property—Miscellaneous Production Equipment—Located at Oroville.

Location and general description	Quantities, items, dimensions, etc.
Cotton covered fire hose with nozzle.....	1½-inch, 50 feet.
Rubber hose with nozzle.....	¾-inch, 50 feet.
Fire extinguishers	Four.
American Meter Company round portable prover.	
Meter prover, 5-light.	
Fairbanks platform scales.....	3000 pounds capacity.
Bench	One.
Vise	One.
Anvil	One.
Blacksmith forges	Two.
Wheelbarrows	Two.
Shovel and fork spades.....	Four.
Douglas drip pumps.....	Two.
Cotton covered hose and nozzle, in shed.	
Eight-day clock.	
Electric extension cord.	
Blue print frame on rail.....	3' 0" x 4' 0".
Blue print frame.....	2' 0" x 3' 0".
Tin lined wash tray.	
Table.	
Shelf.	
Roll top desk.	
Cabinet.	
Chairs	Two.
Stool.	
Electric fan.	
Cormuly set (Jones photometer and gauge).	
Gas heater.	
Drawing table.	
Johnson's first aid cabinet.	
Portable Bristol recording gauge.	
Drip pump.	
Set stencils.	
Water filters	Two.
Tools and appliances.	

Description of Gas Property—Distribution Mains—Located at Oroville.

Items, with detailed description	Unit	Number of units
Wrought iron pipe, ¾-inch.....	100 ft.	1.56
Wrought iron pipe, 1-inch.....	100 ft.	13.70
Wrought iron pipe, 1½-inch.....	100 ft.	10.07
Wrought iron pipe, 1½-inch.....	100 ft.	200.35
Wrought iron pipe, 2-inch.....	100 ft.	211.61
Wrought iron well casing, 3-inch.....	100 ft.	19.80
Wrought iron well casing, 3½-inch.....	100 ft.	24.03
Boiler tube, 3½-inch.....	100 ft.	8.45
Wrought iron pipe, 4-inch.....	100 ft.	59.29
Wrought iron well casing, 4-inch.....	100 ft.	56.46
Wrought iron pipe drips, 2-inch.....	Each	70

Description of Gas Property—Gas Services—Located at Oroville.

General description of service fittings, etc.	Pipe				Number of each
	Size	Weight per 100	Length in feet	Pressure	
Wrought iron pipe.....	4-inch	113	59	Low	625
Wrought iron pipe.....	1-inch	168	59	Low	24
Wrought iron pipe.....	1½-inch	228	59	Low	12
Wrought iron pipe.....	1½-inch	273	59	Low	1
Wrought iron pipe, not conn.	4-inch	113	59	Low	56
Paving over service.....					3

Oro Water, Light and Power Company furnished 25 feet of pipe from property line without cost to consumer.

Pacific Gas and Electric Company now furnish 100 feet of pipe from main without cost to consumer.

Description of Gas Property—Gas Meters—Located at Oroville.

Full description of apparatus	Size	Regular or prepay	Case	Number of each
Tin meter, several manufacturers.....	3-light	Regular	Tin	516
Tin meter, several manufacturers.....	5-light	Regular	Tin	25
Tin meter, several manufacturers.....	40-light	Regular	Tin	1
Iron meter, No. 1 Sprague.....	No. 1	Regular	Iron	230
Iron meter, No. 2 Sprague.....	No. 2	Regular	Iron	2

Description of Gas Property—Stores and Supplies on Hand for Use in California—Located at Oroville.

Items, with detailed description	Unit	Number of units
Fuel oil	Gallon	12,100
Lubricating oil	Gallon	5
Distillate	Gallon	100
Lamp black	Ton	1
Tin meters, 3-light.....	Each	49
Tin meters, 5-light.....	Each	32
Tin meters, 10-light.....	Each	1
Iron meters, No. 1 Sprague.....	Each	21
Pipe covering material.		
Pipe fittings and miscellaneous material.		

DECISION No. 10600.

IN THE MATTER OF THE INVESTIGATION BY THE COMMISSION ON ITS OWN MOTION INTO THE ADEQUACY OF SERVICE, THE FACILITIES FOR SERVICE, AND THE REASONABLENESS OF THE RATES, RULES AND REGULATIONS GOVERNING GAS SERVICE OF SACRAMENTO GAS COMPANY IN LODI, CALIFORNIA.

Case No. 1733.

Decided June 16, 1922.

RATES—GAS UTILITY—COST OF OIL.—Owing to a reduction to the company of the price of crude oil, Sacramento Gas Company is ordered to reduce its rates in Lodi on an average of approximately 18 cents a thousand cubic feet and for the future a differential of 3.2 cents per thousand cubic feet in gas sold for each 10 cents variation in the price of oil per barrel is found reasonable.

RATES—INEFFICIENCY OF OPERATION—FAIR RETURN.—Failure to earn a fair return owing to inefficiency of operation is declared no justification for further inadequate maintenance and non-compliance with the Commission's General Order No. 58 governing gas standards. The company is ordered to add to its equipment and to extend its mains.

Charles T. Hills, for Sacramento Gas Company.

BY THE COMMISSION.

OPINION.

This is a formal investigation into the gas rates, service and practices of Sacramento Gas Company in Lodi, California, instituted by the Commission on its own motion.

A public hearing was held in Lodi on April 19, 1922, before Examiner Satterwhite, at which time evidence was taken and the matter submitted for decision.

Sacramento Gas Company is a utility engaged in the manufacture and sale of gas in the cities of Sacramento and Lodi. The Lodi branch is a distinct and separate manufacturing and distributing unit and this investigation has been confined to it. The present rates for gas in Lodi were established by Decision No. 8241 in Application No. 5694, dated October 15, 1920. The price of oil to Sacramento Gas Company was \$2.35 per barrel at that time but has since been reduced to \$1.91 per barrel, which would indicate that reduction of rates might reasonably be possible.

Notwithstanding the reasonableness of the present rates at the time of their establishment, inefficiencies in manufacture and distribution allowed to occur by the company have prevented it from earning a fair return upon its investment, and this lack of fair return has been advanced by the company management as sufficient reason for further inadequate maintenance of equipment and noncompliance with General Order No. 58 of this Commission.

Testimony was presented by the Commission's Gas and Electrical Division at the hearing, showing that this company has been negligent in complying with the standards for gas service prescribed by this Commission's General Order No. 58. Compliance with these standards is necessary to the rendering of satisfactory gas service and a full compliance will be insisted upon.

The evidence also shows that the growth of business and facilities for service of Sacramento Gas Company have not kept pace with that of the water and electric departments of the city of Lodi. As a result there are considerable areas in the city not served with gas and there are other areas in which the service rendered is inadequate. Sacramento Gas Company, we believe, could make its system in Lodi a good paying business at lower rates if it were properly managed and good

service rendered. To carry on its past practices means further loss to it and to its consumers.

The company reports the sale of 17,763,400 cubic feet of gas in 1921. This is a 15.5 per cent increase over the sales reported in 1920 and a similar increase would indicate the sale of 20,500,000 cubic feet in 1922. There were 714 active meters in February, 1922, and a maximum of 884 during the grape season of 1921. From an examination of the statistics of the city of Lodi we believe there is a possibility of 1500 consumers if modern and progressive steps were taken to serve; that if reasonable diligence is shown by the company it could have 1200 consumers by June, 1923. With good service rendered, the sale of gas for the coming year should reasonably be at least 23,000,000 cubic feet.

The total oil usage has increased from 16.7 gallons in 1917 to 20.4 gallons per 1000 cubic feet sold in 1921, indicating bad plant conditions. With the improvements made and to be made as herein required the efficiency of manufacture should be increased to a marked degree. With close operation the oil usage for the coming year should not exceed 13.5 gallons per 1000 sold, and in fairness to the consumers this Commission can not allow a greater amount in operating expenses.

The operating expenses for the past two calendar years and those considered reasonable for the coming year are set forth in Table No. 1:

TABLE No. 1.
Operating Expenses.

	Amount, 1920		Actual, 1921		Estimate for coming year	
	Amount	Per M sold	Amount	Per M sold	Amount	Per M sold
Production:						
Oil for gas.....	\$12,720 87	\$0 829	\$16,713 24	\$0 942	\$13,600 00	\$0 59
Oil for steam.....	3,059 14	199	1,665 02	095	500	02
Labor and supplies.....	3,046 87	198	4,288 76	241	5,500 00	24
Maintenance.....	2,000 93	130	1,956 88	110	2,860 00	12
Totals.....	\$20,827 81	\$1 356	\$24,623 90	\$1 388	\$22,460 00	\$0 97
Transmission:						
Pumping.....			\$141 35	\$0 008	\$220 00	\$0 01
Maintenance.....			137 89	008	220 00	01
Totals.....			\$279 24	\$0 016	\$440 00	\$0 02
Distribution:						
Labor and supplies.....	\$1,727 36	\$0 112	\$2,171 68	\$0 122	\$2,640 00	\$0 12
Maintenance.....	441 37	029	1,044 57	059	1,760 00	08
Totals.....	\$2,168 73	\$0 141	\$3,216 25	\$0 181	\$4,400 00	\$0 20
Commercial.....	2,041 98	133	2,313 89	130	2,860 00	13
General.....	2,072 78	135	2,172 03	122	2,400 00	10
Totals.....	\$27,111 30	\$1 765	\$32,605 31	\$1 837	\$32,560 00	\$1 42
M cubic feet sales.....	15,379.7		17,763.4		23,000.0	

In previous proceedings the book figures of the company showing its actual investment in operative property have been considered reasonable as a basis for computing rates. The books show an investment of \$99,348.23 as of March 31, 1922. It is estimated by the Commission's engineers that the improvements hereinafter ordered will cost approximately \$35,000, of which approximately \$25,000 will represent the average operative addition for the year. In this proceeding \$125,000 will be used as the average fixed capital for the year. The rate base can then be determined as follows:

Estimated fixed capital, December 31, 1922.....	\$125,000 00
Average month's oil requirements.....	1,125 00
Materials and supplies.....	2,420 00
Working cash capital.....	3,150 00
Total rate base.....	\$131,695 00

The total reasonable cost of good service can now be computed:

Operating expenses	\$32,560 00
Depreciation	3,075 00
Taxes	3,400 00
Fair return (8 per cent on rate base).....	10,536 00
Sub total	\$49,571 00
Uncollectible accounts	249 00
Gross revenue required.....	\$49,820 00
Revenue required per M sold.....	\$2 17

The average revenue for the year 1921 under the rates now in effect was \$2.37 and that for February, 1922, was \$2.35. It will be reasonable and necessary therefore to reduce the rates by approximately eighteen cents (18c.) per 1000 cubic feet. A form of rate which may be adjusted by supplemental order of the Commission to correct for changes in the price of oil without a formal hearing has been adopted in other proceedings and is found reasonable in this case. For this purpose a variation of 3.2 cents per 1000 cubic feet of gas sold for each 10 cents variation in the price of oil per barrel is found reasonable.

The testimony of the Commission's engineers and that of representatives of the company agrees very closely in regard to the additional equipment and facilities necessary to bring the service to consumers up to required standards. The improvements needed at the plant involve increased wash box capacity, repairs to relief holder, additional storage capacity and compressing equipment.

The testimony is also in agreement in regard to facilities for the measurement and testing of the gas made. The evidence clearly brings out that a study of operating efficiency must be predicated upon accurate information as to the results obtained in the various elements of manufacture and distribution. To obtain this information it will be

necessary for the company to maintain an accurate station meter, a gas calorimeter and a standard meter prover.

At the request of the Commission's engineers the company submitted in evidence its estimate of the needed improvements and additions to its distribution system. This estimate has been carefully studied and those improvements and additions which are vital and necessary to full and proper service are herein ordered to be installed. This requirement does not set forth all the additions to be put in. Sacramento Gas Company will be expected to properly manage and operate its properties in the future and periodic inspections will be carried out to see that this is done.

Much complaint has come to this Commission concerning the relations of this company with its consumers. This condition is due partly to lack of adequate rules and regulations to cover the varied problems constantly occurring in a business of this kind. Sacramento Gas Company will be required to adopt such rules as are deemed adequate and fair by the Commission.

ORDER.

The Commission having instituted an investigation on its own motion into the adequacy of service, the facilities for service and the reasonableness of the rates, rules and regulations governing service of Sacramento Gas Company in Lodi, an investigation having been made, a public hearing having been held and the matter submitted:

The Railroad Commission hereby finds as facts that the service, the facilities for service, and the rules and regulations governing service are and have been inadequate and that the rates heretofore fixed in Decision No. 8241 should be modified to conform with the schedule herein set forth, which are just and reasonable rates to be charged for gas service by Sacramento Gas Company in Lodi.

Basing its order on the foregoing findings of fact and the findings of fact contained in the opinion which precedes this order;

It is hereby ordered:

1. That Sacramento Gas Company have installed by June 30, 1922, a full and complete system of records, in compliance with General Order No. 58 of this Commission.

2. That Sacramento Gas Company make the following improvements and additions to its gas plant and system in Lodi, subject to approval of the gas engineering department of the Commission, same to be installed at the earliest possible time:

(1) Sufficient wash box capacity to remove all lampblack from the gas;

(2) Repairs to relief holder to render it serviceable to its full capacity;

(3) The installation of an exhauster;

(4) Provision of additional gas storage capacity of at least 60,000 cubic feet;

(5) Pressure boosting apparatus sufficient to maintain a minimum pressure of five inches of water column at any point on the distribution system during peak hours;

(6) Have installed in Lodi by August 1, 1922, a standard meter prover and an approved type of gas calorimeter with its attendant apparatus;

(7) Lay and put in service the following gas mains, with necessary facilities and service connections, to wit:

(a) Four-inch main on South Stockton avenue from Tokay to a point between Lodi avenue and Walnut avenue. Connections to be made to existing mains as follows: To the six-inch on Tokay; to the three-inch on Lodi, and to the four-inch on Stockton between Lodi and Walnut.

(b) Mains on Hilborn, Flora and Eden streets from Cherokee lane to South Stockton avenue. In each case tie-ins to be made to the existing six-inch main on Central avenue and to the proposed four-inch main on South Stockton. The pipe used must be at least two-inch.

(c) Extension to Cherokee lane of the existing three-inch mains on East Oak and East Walnut streets. The pipe used must be at least three-inch.

(d) Four-inch main on Hutchins avenue to connect the end of the existing four-inch main on Hutchins between Walnut and Oak streets with the existing four-inch main on Hutchins at Elm street. Connections to be made to the existing three-inch mains on Oak and Pine streets.

(e) A loop on Oak, West and Pine streets to connect with the existing three-inch main on Oak near Rose and the existing two-inch mains at the intersection of Rose and Pine streets.

3. That all ordered additions and improvements, except as otherwise ordered, be completely installed and operative on or before December 31, 1922, in a manner satisfactory to the Commission's engineers, and that during the intervening time progress reports be mailed to the office of the Railroad Commission at San Francisco so as to arrive not later than the tenth day of each month, the first such progress report to be mailed within ten (10) days of the date of this order.

It is hereby further ordered, that Sacramento Gas Company charge and collect for gas served by it to consumers in Lodi, for the service as

specified, the following schedules of rates, based on all meter readings taken on and after the first day of July, 1922:

SCHEDULE No. 1.

General Service.

Rate—

First 400 cubic feet per meter per month.....	\$1 20
Next 2,000 cubic feet per meter per month, per 1000 cubic feet.....	2 05
Next 7,000 cubic feet per meter per month, per 1000 cubic feet.....	1 80
Next 10,000 cubic feet per meter per month, per 1000 cubic feet.....	1 65
All over 20,000 cubic feet per meter per month, per 1000 cubic feet.....	1 50

The above rates are subject to increase or decrease on the basis of 3.2 cents per 1000 cubic feet for each 10 cents per barrel increase or decrease respectively in the price of oil above or below the price of \$1.91 per barrel, upon approval of the Railroad Commission of the State of California. Change to be to the nearest one cent.

SCHEDULE No. 2.

Prepayment Meter Service.

Rate—

\$2.25 per 1000 cubic feet. Minimum charge \$1.25 per month.

In case of a reduction in the price paid for oil at any time, Sacramento Gas Company shall file within ten (10) days thereafter an affidavit setting forth the new price of oil and shall upon supplemental order of the Commission in this proceeding, charge the reduced rates as determined under the schedule herein set forth. In case of an increase in the price of oil at any time, Sacramento Gas Company may, after filing affidavit of such increase and receiving a supplemental order from this Commission so authorizing, charge the increased rates as determined under the schedule herein set forth.

It is hereby further ordered, that Sacramento Gas Company shall file on or before July 15, 1922, rules and regulations acceptable to this Commission to be made effective as hereafter directed.

It is hereby further ordered, that Sacramento Gas Company shall, within ten (10) days of the date of this order, file with the Commission the schedules of rates herein set forth.

Dated at San Francisco, California, this sixteenth day of June, 1922.

DECISION No. 10601.

IN THE MATTER OF THE APPLICATION OF THE UNITED LIGHT, FUEL AND POWER COMPANY FOR PERMISSION TO SELL ITS ELECTRIC LIGHT AND POWER DISTRIBUTION SYSTEM IN THE CITY OF CORONADO, INCLUDING ITS PRIVILEGES, PERMITS AND BUSINESS, TO THE SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY.

Application No. 7734.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AUTHORITY TO ISSUE AND SELL ONE HUNDRED FOUR THOUSAND DOLLARS PAR VALUE OF ITS PREFERRED OR COMMON STOCK.

Application No. 7742.

Decided June 16, 1922.

TRANSFER—SECURITIES—EXCLUSIVE FRANCHISE.—The Commission holds that the evidence in the instant case does not warrant it in making an order authorizing the issue of \$25,000 of stock to pay for an exclusive franchise to conduct an electrical distributing business in the city of Coronado.

Read G. Dilworth, for United Light, Fuel and Power Company.

Chickering and Gregory; Cummins, Röcmer and Flynn; Sweet, Stearns and Forward, by Allen L. Chickering, for San Diego Consolidated Gas and Electric Company.

BENEDICT, *Commissioner.*

OPINION.

The above entitled matters were consolidated for hearing and decision.

In Application No. 7734, United Light, Fuel and Power Company asks permission to sell to San Diego Consolidated Gas and Electric Company for \$100,000, in cash, its electric light and power distributing system in the city of Coronado and all of its physical properties included and listed in the unit inventory of United Light, Fuel and Power Company in asset account number one, "Fixed capital installed prior to January 1, 1913," account number two, "Fixed capital installed since December, 1912," account number nine, "Materials and supplies," as they appeared on February 28, 1922, including such other equipment specified in the offer of sale, and all of its privileges, permits and business and its goodwill, except its franchise to be a corporation and except its cash on hand, accounts receivable and securities owned by it. San Diego Consolidated Gas and Electric Company joins in the application and asks permission to purchase such properties.

In Application No. 7742, San Diego Consolidated Gas and Electric Company asks permission to issue and sell, at not less than 96½ per cent of its par value, \$104,000 of its 7 per cent cumulative preferred stock and to use the proceeds to pay for the properties to be acquired from United Light, Fuel and Power Company.

United Light, Fuel and Power Company is a public utility distributing electricity for light and power in the city of Coronado, San Diego County, reporting 1361 consumers on December 31, 1921. It reports that it was organized on or about December 19, 1904, with an authorized capital stock of \$500,000, divided into 500 shares of the par value of \$100 each. Of the authorized stock, \$207,000 is outstanding, all of which, excepting directors' shares, is reported held by J. D. and A. B. Spreckels Securities Company.

On December 28, 1911, United Light, Fuel and Power Company purchased from the Coronado Beach Company for the sum of \$50,000 the electric distributing system and properties serving the city of Coronado. Included in the properties thus acquired was what is reported as an exclusive franchise right for conducting a commercial lighting and power business, of setting poles and stringing the necessary wires, cables and other equipment, overhead and underground, along streets, roads, avenues, boulevards and rows designated in the official map of South Island of Coronado Beach. There was ascribed to such rights and privileges the value of \$25,000. It is said that the Coronado Beach Company's right to grant such an exclusive privilege was based upon the rights reserved to themselves in a deed poll under which the streets of the city of Coronado were dedicated. The records show that the same interests controlled the Coronado Beach Company and United Light, Fuel and Power Company on December 28, 1911, the date on which the properties were transferred. The evidence does not show how the parties to the transaction arrived at the \$25,000 value placed upon the exclusive rights. Neither does the record show that the city of Coronado is estopped from granting to any one a franchise permitting the construction and operation of an electrical distributing system. The representative for the San Diego Consolidated Gas and Electric Company, however, urges that if the city of Coronado were to grant such a franchise to the San Diego Consolidated Gas and Electric Company, the grantee would be required to pay the ordinary franchise tax, and that inasmuch as the company through the acquisition of these properties obtains a right to operate in the city of Coronado without the payment of a franchise tax, the Commission should view the \$25,000 payment on a strictly tax basis. If the San Diego Consolidated Gas and Electric Company were to obtain a franchise from the city and pay license tax, such license tax would be recognized by this Commission as a part of the operating expense and the consumers rather than the company would pay the tax.

United Light, Fuel and Power Company reports the original cost of the properties which it asks permission to sell at \$91,792.39, exclusive of any allowance for overhead charges and materials and supplies, but including the \$25,000 for the exclusive right to operate an electrical

distributing system in the city of Coronado. The engineering department of the Commission, in the Commission's Exhibit No. 1, reports the historical cost of the properties, excluding the franchise rights and materials and supplies, at \$69,554. The reproduction cost of the properties is reported by the Commission's engineers at \$112,494, and the reproduction cost less depreciation at \$89,995.

The testimony shows that United Light, Fuel and Power Company purchases its electrical energy principally from the Hotel Del Coronado, such energy being produced by a steam generating plant owned by the J. D. and A. B. Spreckels Securities Company. It appears that extensive improvements must be made in this plant in order that adequate service may be given. Rather than incur such cost, the owners of the United Light, Fuel and Power Company have concluded to sell the electrical distributing system to the San Diego Consolidated Gas and Electric Company. It seems that the purchasing company can readily supply the city of Coronado with electrical energy without incurring any great expense for added generating capacity and can operate the distributing system in connection with its gas business more economically than the properties can be operated by the United Light, Fuel and Power Company.

San Diego Consolidated Gas and Electric Company asks permission to issue and sell at 96½ per cent of its par value \$104,000 of its 7 per cent preferred stock for the purpose of paying for the properties. This request has been considered and I am of the opinion that the company should not be permitted to issue more than \$78,100 of preferred stock for the purpose of acquiring the properties of the United Light, Fuel and Power Company. If the company concludes to pay \$100,000 for these properties, it will be necessary for it to obtain \$25,000 of the purchase price from some source other than through the issue of bonds, stock, notes or other evidences of indebtedness authorized by this Commission. In my opinion the evidence in this case does not warrant the Commission in making an order authorizing the issue of stock for the purpose of paying \$25,000 for the right to conduct an electrical distributing business in the city of Coronado.

I recommend that this application be granted subject to the conditions of the following order:

ORDER.

Applications having been made to the Railroad Commission for an order authorizing the sale and transfer of properties owned by the United Light, Fuel and Power Company and the issue of stock by the San Diego Consolidated Gas and Electric Company, a public hearing having been held and the Railroad Commission being of the opinion that these applications should be granted subject to the provisions and

conditions of this order, and that the money, property or labor to be procured or paid for by the issue of stock herein authorized is reasonably required by the San Diego Consolidated Gas and Electric Company:

It is hereby ordered, that United Light, Fuel and Power Company be and it is hereby authorized to sell and transfer, at a cost of not exceeding \$100,000, its electric light and power distributing system and its physical properties, privileges, permits, business and goodwill described in Exhibit "A" and Exhibit "B" filed in Application No. 7734, to the San Diego Consolidated Gas and Electric Company.

It is hereby further ordered, that San Diego Consolidated Gas and Electric Company be and it is hereby authorized to acquire and purchase all of said properties, and pay therefor not exceeding \$100,000, of which only \$75,000 may be capitalized through the issue of stock, bonds, notes or other evidence of indebtedness authorized by this Commission.

It is hereby further ordered, that San Diego Consolidated Gas and Electric Company be and it is hereby authorized to issue and sell at not less than 96½ per cent of its par value net, \$78,100 par value 7 per cent cumulative preferred stock and use the proceeds obtained from the sale of such stock to pay in whole or in part for the properties which it is herein authorized to acquire.

The authority herein granted is subject to further conditions as follows:

(1) The stock herein authorized to be issued and the amount paid for the properties herein authorized to be transferred shall not be urged before this Commission, or other body having jurisdiction, as a measure of the value of such properties for the purpose of fixing rates or for any purpose other than the transfer herein authorized.

(2) Within sixty days after the execution of the deed conveying the properties herein authorized to be transferred, San Diego Consolidated Gas and Electric Company shall file a certified copy of such instrument with the Railroad Commission.

(3) San Diego Consolidated Gas and Electric Company, within sixty days after the acquisition of the properties of United Light, Fuel and Power Company, shall file with the Railroad Commission a copy of all book entries relative to the acquisition of such properties.

(4) San Diego Consolidated Gas and Electric Company shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(5) The authority herein granted will apply only to such transfer of properties and to such issue of stock as may be made on or before November 30, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this sixteenth day of June, 1922.

DECISION No. 10603.

IN THE MATTER OF THE APPLICATION OF SIERRA AND SAN FRANCISCO POWER COMPANY, A CORPORATION, AND PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION GRANTING APPLICANTS A CERTIFICATE UNDER SECTION FIFTY OF THE PUBLIC UTILITIES ACT DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE AND WILL REQUIRE THE CONSTRUCTION OF THE POWER PLANT AND PROJECT MENTIONED HEREIN; AND ALSO REQUIRE AND WILL REQUIRE THE CONSTRUCTION OF THE TRANSMISSION LINE DESCRIBED IN THIS PETITION.

Application No. 6376.

Decided June 22, 1922.

CERTIFICATE—ELECTRIC UTILITY—WATER DIVERSION—JURISDICTION.—In granting the Sierra and San Francisco Power Company and the Pacific Gas and Electric Company a certificate of public convenience and necessity to construct a power plant on the Middle Fork of Stanislaus River, the Commission holds that it does not have jurisdiction to adjudicate or determine the relative rights of diversion and storage, this jurisdiction being under the State Water Commission.

C. P. Cutten and Chickering and Gregory, by *Evan Williams*, for Applicant.
Grant and Zimdara, by *Wm. Grant and J. C. Webster*, for Protestants.
J. T. B. Warren, City Attorney, for City of Sonora.

MARTIN, *Commissioner*.

OPINION.

This application is a joint petition by Pacific Gas and Electric Company and Sierra and San Francisco Power Company for an order of the Railroad Commission declaring that public convenience and necessity require and will require the construction of a hydro-electric power plant to be known as the Spring Gap plant, to be constructed on the Middle Fork of the Stanislaus River.

The evidence indicates that Pacific Gas and Electric Company, lessee of the properties of Sierra and San Francisco Power Company under a certain lease entered into on December 31, 1919, proposes to construct a hydro-electric plant of 7500 kilovolt amperes capacity to be located on the south bank of the Middle Fork of the Stanislaus River in the N.W. $\frac{1}{4}$ of the S.E. $\frac{1}{4}$ of Section 21, T. 4 N., R. 17 E., M. D. B. and M., together with the necessary penstock connecting with the

Philadelphia ditch, a ditch constructed by the Sierra and San Francisco Power Company, diverting waters from the South Fork of the Stanislaus River at a point in the N.W. $\frac{1}{4}$ of the N.W. $\frac{1}{4}$ of Section 30, T. 4 N., R. 18 E., M. D. B. and M., and conveying it across the dividing ridge and discharging into the Middle Fork.

The Sierra and San Francisco Power Company has heretofore constructed its new Strawberry reservoir and has been diverting, under Permit No. 668 of the State Water Commission of California, through the Philadelphia ditch, water stored in said reservoir in ~~excess of~~ water heretofore stored and dedicated to other uses and the natural flow of the stream as authorized in said permit to the capacity of the ditch, which is practically 50 second-feet. The water has been conducted through the Philadelphia ditch to a point known as Spring Gap, where it has been allowed to spill down the side hill, dropping through a total head of 1860 feet. The proposed plant is to be installed to utilize this effective head and make available the power that would otherwise be wasted. The estimated cost of the construction is \$975,000.

It appears from the evidence that Sierra and San Francisco Power Company and Pacific Gas and Electric Company, lessee, have continued to divert the water to a maximum flow of 50 second-feet from the South Fork of the Stanislaus River through the Philadelphia ditch for approximately five years under appropriation as provided in Permit No. 668 of the State Water Commission; that the construction of the Spring Gap power plant will make useful approximately 6000 kilowatts of additional power at a reasonably low cost and that public convenience and necessity will be served by the construction and operation of this plant.

Protestants, representing water consumers in Tuolumne County, urge that no permit be granted which will in any wise impair or seemingly deny any rights they may have to the water which is to be used in the Spring Gap power plant.

This Commission does not have jurisdiction to adjudicate or determine the relative rights of diversion and storage on this stream, this jurisdiction being under the State Water Commission. It appears, however, that the water has been diverted and that permit for the diversion of water has been granted by that body under Permit No. 668.

I recommend the following form of order:

ORDER.

Pacific Gas and Electric Company and Sierra and San Francisco Power Company having applied to the Railroad Commission for a certificate that public convenience and necessity require and will require the construction by Pacific Gas and Electric Company of a certain

proposed hydro-electric power plant with appurtenant water conduits, transmission lines, etc., to be known as the Spring Gap power plant with a capacity of 7500 kilovolt amperes, a hearing having been held and the matter submitted:

The Railroad Commission of the State of California does hereby certify and declare that public convenience and necessity require the construction by Pacific Gas and Electric Company of the hydro-electric power plant, penstock, water conduits and transmission lines, all known as the Spring Gap power plant and more fully described in the application for this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-second day of June, 1922.

DECISION No. 10604.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN POWER COMPANY OF CALIFORNIA, A CORPORATION, TO ISSUE AND SELL TWO MILLION DOLLARS, FACE AMOUNT, OF SERIES "C" FIRST AND REFUNDING MORTGAGE BONDS.

Application No. 7754.

Decided June 22, 1922.

Guy C. Earl and Chaffee E. Hall, by Chaffee E. Hall, for Applicant.

BENEDICT, *Commissioner.*

FIRST SUPPLEMENTAL OPINION.

Great Western Power Company of California, in its first supplemental application filed in the above entitled matter, asks permission to use \$1,653,073.19 of the proceeds obtained from the sale of the Series "C" six per cent first and refunding mortgage bonds authorized by Decision No. 10355, dated April 25, 1922, to finance construction expenditures made prior to May 1, 1922, and to pay, in part, the cost of acquiring properties.

By decision No. 10355 the Railroad Commission authorized applicant to issue and sell, at not less than 96 per cent of face value, plus accrued interest, \$2,000,000 of Series "C" six per cent first and refunding mortgage sinking fund gold bonds due February 1, 1952, and to use the proceeds, if necessary, to pay general mortgage 8 per cent bonds called for redemption on August 1, 1922. The order of the Commission provided that any of such proceeds not used to pay general

mortgage bonds should be deposited in a special bank account or accounts and expended only for such purpose as the Commission might thereafter authorize.

The company now reports that it believes that the holders of substantially all of the outstanding general mortgage bonds will exercise their rights to exchange such general mortgage bonds, upon redemption, for Series "B" 7 per cent first and refunding bonds, and that consequently only a small portion of the proceeds (~~not exceeding~~ \$250,000) from the sale of the \$2,000,000 of bonds will be necessary to pay the general mortgage bonds when called.

Applicant now asks the Commission to make its order permitting the use of \$1,653,073.19 of the proceeds obtained from the sale of bonds authorized by Decision No. 10355 to reimburse its treasury.

The company reports that it has expended for capital purposes prior to December 31, 1921, for which it has not been reimbursed, the sum of \$34.59; that it has expended for its Golden Gate substation prior to May 1, 1922, \$140,033.64, for other additions and betterments prior to May 1, 1922, \$388,004.96, and for the properties of Universal Electric and Gas Company, \$1,125,000, making a total of \$1,653,073.19 representing expenditures made prior to May 1, 1922, for which applicant has not been reimbursed.

I herewith submit the following form of order:

FIRST SUPPLEMENTAL ORDER.

Great Western Power Company of California, having applied to the Railroad Commission for permission to use proceeds obtained from the sale of the bonds authorized by Decision No. 10355 dated April 25, 1922, a public hearing having been held and the Railroad Commission being of the opinion that the application should be granted, as herein provided;

It is hereby ordered, that the order in Decision No. 10355 dated April 25, 1922, be and it is hereby modified so as to permit Great Western Power Company of California to use not exceeding \$1,653,073.19 of the proceeds obtained from the sale of the \$2,000,000 of bonds authorized by the order in said decision, to finance the cost of the extensions, additions, betterments, and properties described in the first supplemental application in this proceeding and referred to in the foregoing opinion, provided:

That only such cost of the extensions, additions, betterments, and properties as is properly chargeable to capital account under the Classification of Accounts prescribed or adopted by the Railroad Commission shall be financed through the use of \$1,653,073.19 of the proceeds.

It is hereby further ordered, that the order in Decision No. 10355 dated April 25, 1922, shall remain in full force and effect except as modified by the first supplemental order.

The foregoing first supplemental opinion and first supplemental order are hereby approved and ordered filed as the first supplemental opinion and first supplemental order of the Railroad Commission.

Dated at San Francisco, California, this twenty-second day of June, 1922.

DECISION No. 10605.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN POWER COMPANY OF CALIFORNIA, A CORPORATION, TO ISSUE AND SELL TWO MILLION DOLLARS PAR VALUE OF PREFERRED STOCK.

Application No. 7925.

Decided June 22, 1922.

Guy C. Earl and Chaffee E. Hall, by Chaffee E. Hall, for Applicant.

BENEDICT, *Commissioner.*

OPINION.

Great Western Power Company of California asks permission to issue and sell, at not less than \$90 per share, 20,000 shares (\$2,000,000 par value) of its 7 per cent cumulative preferred stock and to use the proceeds to finance construction expenditures made or to be made during 1922.

Applicant reports that it proposes to expend, or has already expended, during the year 1922, for the acquisition of property, for the construction, completion, extension or improvement of facilities, and for the improvement and maintenance of its service, the sum of \$2,383,285, as shown in some detail in Exhibit "A."

This expenditure is distributed by applicant to its various districts as follows:

San Francisco	\$489,050 00
Oakland	1,361,485 00
Sacramento	179,000 00
Big Bend	35,000 00
San Mateo	11,500 00
Rio Vista	82,000 00
Northwestern	40,250 00
Big Meadows	185,000 00
Total	<u>\$2,383,285 00</u>

It appears that \$575,167.85 of this amount was expended prior to May 1, 1922, and has been financed or will be financed by proceeds obtained from sources other than preferred stock. Deducting \$575,167.85 from the total reported expenditures for 1922 leaves a balance of \$1,808,117.15.

The expenditures allocated to the San Francisco district include \$245,800 for a submarine cable; those allocated to the Oakland district \$880,652 for the Golden Gate substation.

As of April 30, 1922, the company reports outstanding \$4,303,084.21 of its 7 per cent preferred stock. The record shows that applicant at present is realizing more than \$90 per share net from the sale of its stock. The order herein will permit applicant to sell the stock at not less than \$91.50 per share net and use the proceeds to pay for extensions, additions and betterments described in Exhibit "A" filed in this proceeding.

I herewith submit the following form of order:

ORDER.

Great Western Power Company of California, having applied to the Railroad Commission for permission to issue and sell \$2,000,000 of preferred stock, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for is reasonably required for the purpose or purposes specified herein, and that the expenditures for such purpose or purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Great Western Power Company of California be and it is hereby authorized to issue and sell for cash at not less than \$91.50 net per share, 20,000 shares (\$2,000,000 par value) of its 7 per cent cumulative preferred stock and to use the proceeds to finance in part the cost of the extensions, additions and betterments not financed through the sale of bonds, reported in Exhibit "A" filed in this proceeding.

The authority herein granted is subject to the following conditions:

1. Only such portion of the cost of the extensions, additions and betterments reported in Exhibit "A" as is properly chargeable to capital account under the Classification of Accounts prescribed or adopted by the Railroad Commission may be financed through the issue and sale of the stock herein authorized.

2. Applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will apply only to such stock as may be issued and sold on or before December 31, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-second day of June, 1922.

DECISION No. 10606.

IN THE MATTER OF THE APPLICATION OF THE BEAR VALLEY UTILITY COMPANY FOR AUTHORITY TO SELL TWO HUNDRED SHARES OF ITS CAPITAL STOCK, AND FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE ACQUIRING OF A LONG DISTANCE TELEPHONE LINE, RIGHTS OF WAY, NECESSARY LANDS AND OFFICES, AND THE CONSTRUCTION OF TELEPHONE LINES THROUGHOUT THE VICINITY KNOWN AS BIG BEAR VALLEY, CALIFORNIA.

Application No. 7495.

Decided June 22, 1922.

SECURITIES—STOCK—CERTIFICATE.—Applicant authorized to issue and sell for cash at not less than eighty-five, 153 shares (\$15,300) of its common capital stock and to exercise franchise rights granted by the board of supervisors of San Bernardino County for telephone service.

CERTIFICATE—EXISTING COMPANY—SERVICE.—Protest of an existing company is not sustained, as it is declared to have shown no disposition to provide the service contemplated in the application. Had it done so the Commission states it would recognize and protect protestant's rights to extend service, but under the circumstances it has no superior right to serve a territory which it has not already entered.

McNabb and Hodge, by *R. E. Hodge*, for Applicant.

James Erwin, in *propria persona*.

J. L. Adams, for The Pacific Telephone and Telegraph Company.

Dad Skinner, for Pine Knot Company, Protestants.

BY THE COMMISSION.

OPINION.

The Bear Valley Utility Company, petitioner herein, is a corporation organized under the laws of this state for the purpose, among other things, of acquiring, constructing, owning and operating telephone lines and necessary appliances and to conduct a general telephone business in portions of San Bernardino County, and, in particular, in the territory known as Big Bear Valley. In this application the petitioner is seeking a certificate of public convenience and necessity authorizing it to exercise the rights and privileges conferred upon it by the board of supervisors of San Bernardino County, on November 21, 1921, in Ordinance No. 198, entitled "An Ordinance granting a franchise to the Bear Valley Utility Company, a corporation, for a period of fifty years, to erect, construct, operate and maintain an electric pole, tower and wire system for the purpose of the transmission of telephone messages upon and along the highways of the county of San

Bernardino and outside of any incorporated city or town." It is also seeking an order of the Commission, authorizing it to issue and sell two hundred shares of its common capital stock for the purpose of acquiring a privately owned telephone line extending from Big Bear Valley to Highland and for the purpose of constructing and establishing a telephone exchange and telephone lines and other necessary telephone equipment in Big Bear Valley, San Bernardino County, California.

Public hearings in the matter were held at Pine Knot on June 1 and 2, 1922, before Examiner Williams.

In its application, petitioner asks authority to issue and sell two hundred shares of its common capital stock at par value \$100 per share. At the hearing on June 1 it asked and was granted permission to amend its application to ask for authority to sell its stock at not less than \$85 per share. As shown in the previous proceeding before this Commission, Application No. 7005, it is of record that the Bear Valley Utility Company was organized on June 30, 1921, with an authorized capital stock of \$100,000, divided into 1000 shares.

In its Decision No. 9396, decided August 23, 1921, in the proceeding referred to above, the Commission authorized the issuance and sale by petitioner of 400 shares of its common capital stock at not less than 85 per cent of par value, for the purpose of financing the proposed construction of an electric distributing system in Big Bear Valley, and for working capital. Of this amount it has issued and sold 243 shares. Of the amount obtained from the sale of this stock, it has expended \$19,479.80. The purposes for which it is desired to obtain funds by the sale of the 200 shares, for which application is now made, are the purchase of necessary equipment and material for the construction of telephone lines and the installation of central office and subscriber station apparatus, and for the purchase of an existing line.

The application sets forth, in effect, that the territory within which it proposes to construct and operate its telephone system is a rapidly developing section of mountain, summer and winter camps; that the only telephone service now available is inadequate and inefficient, being that which is provided by a line extending from the Pine Knot Hotel, at Pine Knot, to Redlands, owned and operated by the Pine Knot Corporation, and the privately owned line, which petitioner desires to acquire, extending between Big Bear Valley and Highland; that the public convenience and necessity require the establishment of a telephone exchange in Big Bear Valley, connecting the various camps, residences and business houses located therein; and that the purchase and operation of the line, which it desires to acquire, and the establishment

of the proposed telephone exchange, will not interfere with the lines of any existing public utility of like character.

The monthly rates which petitioner desires to establish are set forth in the following table. The rates proposed for long distance telephone, toll and telegraph service are the same as those now in effect for similar service over the toll lines of The Pacific Telephone and Telegraph Company with which lines it is proposed to establish connection at San Bernardino for service to and from outside points.

Table of Proposed Rates.

	Business	Residence
Individual one-party line, wall set, per month.....	\$4 25	\$3 50
Two-party line, wall set, per month.....	3 75	3 00
Four-party line, wall set, per month.....		2 50
Eight-party line, wall set, per month.....		2 25
Suburban ten-party line, wall set, per month.....	3 50	3 50
Extension sets, per month.....	1 00	1 00
Farmer lines, per year.....	24 00	12 00

Primary Rate Area:

All rates except suburban line rates to apply inside a two miles radius from the central office—outside that area additional mileage rates to apply as follows:

Mileage Rates.

For each quarter mile or fraction thereof.

One-party line.....	\$0 50 per month
Two-party line.....	35 per month
Four-party line.....	25 per month
Eight-party line.....	15 per month

Auxiliary Service.

Desk sets instead of wall sets.....	\$0 25 per month
Extra bells.....	50 per month
Additional listings.....	50 per month
Joint users.....	1 50 per month

Farmer Line Service:

Farmer line service will be furnished at the rates listed above for not less than five subscribers per line. Under these rates subscribers will be required to furnish and maintain at their own expense the necessary lines from the subscribers' premises to the boundary of the primary rate area, complete telephone sets and substation protection. The company will furnish and maintain, at its own expense, the necessary connecting lines from the switchboard to the boundary of the primary rate area, and switchboard service, farmer line stations not to be located within the primary rate area.

MOVES AND CHANGES.

1. Charges for changes of location of telephone equipment or wiring on the subscriber's premises:

a. For moving a telephone set from one location to another on the same premises, a charge of \$3.00.

b. For moving any other equipment or wiring from one location to another on the same premises, a charge based on the cost of labor and material.

2. Charges for changes other than moves in wiring and equipment on the subscriber's premises, made on the initiative of the subscriber:

a. For change in type or style of telephone set, a charge of \$3.00.

b. For other changes in equipment or wiring, a charge based on the cost of labor and material.

3. The charges specified above not to apply if the changes or moves are required for the proper maintenance of the equipment or service.
4. The charges specified above not to apply if the changes are required because of a change in class or grade of service.

Petitioner has also submitted suggested rules and regulations covering the installation and operation of service, etc., which, in some respects, differ from the standard rules and regulations heretofore adopted by this Commission in its Decision No. 2879, governing these matters and which are generally in operation throughout this state. Since this Commission will require the petitioner to adopt rules and regulations in conformity with those provided for in that decision, the rules and regulations submitted by petitioner need not be set forth in this opinion.

The Pine Knot Company, referred to above as Pine Knot Corporation, protests the granting of a certificate of public convenience and necessity to petitioner on the grounds that it has, for about twelve years, operated a telephone line between Pine Knot in Big Bear Valley and the city of Redlands; that, except at intervals of interruption, due to storms or other causes beyond its control, it has furnished adequate service and that it is willing and ready to provide additional facilities, if required, to maintain adequate and efficient service. It gave notice also that the Southwestern Home Telephone Company of Redlands, with which system its line connects for toll service, desires to file a similar protest. By stipulation, it was agreed that eight days should be allowed the Southwestern Home Telephone Company, within which to file this protest and seven days allowed the petitioner to file its answer. The Southwestern Home Telephone Company, however, has failed to file its protest.

Protestant has heretofore filed with the Railroad Commission its rates for toll service between the City of Redlands and points on its line, including Pine Knot, thus being of record with the Commission as a public utility, providing a toll service only within a portion of the territory involved in petitioner's application. It has not furnished, and does not now furnish, service in or between different points within Big Bear Valley. At Pine Knot it has one telephone operated as a toll station on the line extending to Redlands. The private line which petitioner proposes to purchase and operate as a toll line, connecting Big Bear Valley with the toll lines of The Pacific Telephone and Telegraph Company, was originally constructed for private use but has been permitted by its owners to be used by the public without the payment of toll charges for its use. It has been in operation, except during interruptions due chiefly to weather conditions, for approximately

eight or ten years. The only telephones connecting with it in Big Bear Valley are those maintained by its private owners, who are willing to transfer it to the petitioner.

The Commission has here before it a case wherein public convenience and necessity clearly require a telephone service, which, until now, when petitioner is willing, able and ready to provide it, neither the protestant nor the owners of the private line apparently have been able or have made an effort to provide. In so far as an encroachment upon, or interference with, the use by the public of protestant's toll line to Redlands is concerned, it does not appear that the operation by petitioner of the existing private line which, under such operation would be subject to the payment of toll charges for its use would detract any more, if indeed as much, from the use of protestant's line, as it would if its operation under private ownership were to be continued.

The issue here appears rather to be in the establishment of service which petitioner proposes to place at the convenient disposal of residents and others throughout the valley. This, protestant has heretofore shown no disposition to provide. Had it done so, in good faith, its right to extend service would be recognized and protected, but it is now urging a superior right to serve a territory which it has not already entered. The project in which petitioner desires to engage is not one in which there is any needless duplication of investment involved, hence there will be no economic waste to be borne through rates by the public. On the contrary, petitioner has already provided and is continuing to extend facilities for its electric distributing system which it is intended to use jointly in the construction of telephone lines, thus effecting a means of curtailing invested capital.

Applicant has obtained and presented a petition, signed by a substantial number of interested business men and other persons, endorsing the enterprise. A canvass for prospective telephone users, conducted by petitioner, indicates that there will be approximately ninety telephones awaiting installation within Big Bear Valley as soon as facilities can be provided. It is our opinion, therefore, that petitioner's application should be granted, subject, however, to the issuance by the Commission of its supplemental order, as hereinafter provided, with reference to the issuance and sale of petitioner's capital stock.

Petitioner is seeking authority to purchase the private line, heretofore referred to, known as the Talmadge line, for the sum of \$4,700, payable in stock of the company. According to incomplete information now available, this line consists approximately of fifty or fifty-two miles of grounded iron circuit, constructed for the most part on trees but partly on redwood poles. For the purpose of appraising the prop-

erty, to determine its reasonable value for purposes of sale and transfer, the Commission's engineers recently made a trip to Big Bear Valley, but, due to the fact that the section of country through which the line is constructed was at the time heavily covered with snow, they were unable to make an inventory and appraisal of the line. This it will be necessary to do before it can be determined whether the proposed purchase price is reasonable and before the Commission can pass upon the issuance of stock in payment for the same. This will be done as soon as circumstances will permit. In the meantime the Commission must withhold authority for the issuance of this portion of petitioner's stock. As to the balance of the proposed stock issue, since the purposes for which it is desired to make use of the proceeds obtained from the sale of stock are for proper capital purposes the Commission is willing to authorize its issuance at not less than 85 per cent of par value.

In the matter of rates proposed by petitioner to be charged for the service involved, as set out in the preceding, except as to the rate for suburban residence service, and, except in certain other minor respects, there appears to be no objection to their present adoption. The proposed rates are somewhat higher than the rates ordinarily charged in exchanges of the size which petitioner estimates will be in operation when service first is established. Conditions in this locality are such that a rate higher than would ordinarily obtain, under more favorable conditions, would appear to be justified. If, after the proposed system has been in operation for a sufficient time to determine the ultimate reasonableness of the rates hereinafter authorized, it might appear that these rates are excessive, they may then be modified by a subsequent filing, upon the initiative of petitioner or upon the further order of the Railroad Commission. In order to conform more nearly with the rates proposed for other classes of service, the rate for suburban residence service should not exceed \$3 per month. Under the circumstances, we are willing that the rates herein proposed and as modified in this suggestion be made effective upon the establishment of service.

The order, contained in the Commission's Decision No. 9396, Application No. 7005, heretofore referred to, authorized applicant to issue and sell, on or before February 28, 1922, at not less than 85 per cent of par value, 400 shares of its common capital stock. It has since come to the notice of the Commission that 85 shares of the stock therein authorized to be issued and sold have been pledged to the San Bernardino National Bank as security for a loan aggregating \$8,500, issued upon the notes of three individuals.

The authority to issue and sell stock, above referred to, does not permit the Bear Valley Utility Company to hypothecate any of its stock.

This matter having been called to the attention of petitioner, it states that this amount of stock was not pledged by it as security but that, so far as it is concerned, the stock has actually been sold and is no longer the property of the utility. This is not a matter of direct importance in the present proceeding, but the Commission suggests that if this amount of stock has actually been sold by the utility, it be issued in the name of and sold to the persons giving their notes to the San Bernardino National Bank, whereupon they, as individuals, may, if they so desire, transfer it to the bank as security.

ORDER.

Application having been filed with the Railroad Commission by Bear Valley Utility Company for authority to sell 200 shares of its common capital stock and for an order granting a certificate declaring that public convenience and necessity require the acquisition, construction and operation of telephone lines, rights of way, necessary lands and offices in and throughout the vicinity known as Big Bear Valley, California; public hearings having been held and the matter being now ready for decision; and it appearing to the Railroad Commission that the application should be granted and that the money, property or labor to be procured, or paid for, by such issue of stock is reasonably required for the purposes specified herein, and that the expenditures for such purpose, or purposes, are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that the Bear Valley Utility Company be and it is hereby authorized to issue and sell, for cash, on or before November 1, 1922, at not less than 85 per cent of par value, 153 shares (\$15,300) of its common capital stock.

The authority herein granted to issue stock is subject to the conditions following:

1. The proceeds from the sale of the stock herein authorized to be issued and sold shall be used by applicant to finance the proposed construction work and for working capital, as described in Exhibit No. 4, filed with this application.

The petitioner, Bear Valley Utility Company, shall not issue and sell any of its stock for the purpose of acquiring the telephone line known and designated in the preceding opinion as the Talmadge line, until it shall have been determined by this Commission the reasonable amount of stock which petitioner may be permitted to issue and sell for said purpose and until this Commission shall have issued its supplemental order herein authorizing such issuance and sale.

2. Applicant shall keep such record of the issuance and sale of the stock herein authorized and of the disposition of the proceeds as will

enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The Railroad Commission hereby declares that public convenience and necessity require the exercise by the Bear Valley Utility Company of the rights and privileges granted by the board of supervisors of San Bernardino County on November 21, 1921, in Ordinance No. 198, provided that the Bear Valley Utility Company, within thirty (30) days from the date of this order, shall file with the Railroad Commission a stipulation duly authorized by its board of directors, declaring that it, its successors and assigns, will not claim before the Railroad Commission or any court or other public body, a value for such rights and privileges in excess of the amount actually paid to the county of San Bernardino as the consideration for the grant of such franchise, which amount shall be stated in this stipulation.

Before the schedule of rates herein authorized may become effective petitioner shall first have filed for the approval of the Railroad Commission its schedule of rates as set forth and modified in the opinion preceding this order, together with its rules and regulations governing the same.

Dated at San Francisco, California, this twenty-second day of June, 1922.

DECISION No. 10607.

IN THE MATTER OF THE APPLICATION OF W. H. SMITH FOR ADJUSTMENT AND ESTABLISHMENT OF RATES FOR SERVICE OF WATER IN THE TOWN OF BLAIRSDEN, PLUMAS COUNTY, CALIFORNIA.

Application No. 7530.

Decided June 22, 1922.

TRANSFER—JOINT APPLICATION.—Where a transfer was made in good faith and the seller is not now accessible, the title will be recognised as vested in the purchaser, even though joint participation for permission to transfer, as provided in the Public Utilities Act, was not made.

DEDICATION—PRIVATE RIGHTS—PUBLIC USE.—A private right can not be granted out of a supply already dedicated to public use.

H. A. Euclid and Francis Carr, by H. A. Euclid, for Applicant.

Isadore Riffel, in relation to his contract with C. A. Jones, predecessor in interest of W. H. Smith, and for Martin H. Miller.

James L. Jones, in propria persona.

BY THE COMMISSION.

OPINION.

W. H. Smith, doing business under the name of the Blairsdén Water Company's System, applicant herein, is engaged in furnishing water for domestic purposes in the town of Blairsdén, Plumas County.

Applicant asks that it be determined by the Railroad Commission that applicant is a public utility with the right to collect rates and charges for delivery of water through his system and that an adjustment and establishment of said rates be made by the Railroad Commission; also for the ratification of the transfer of the water system from C. A. Jones to W. H. Smith, made October 5, 1918.

A public hearing was held in this proceeding at Blairsden, Plumas County, of which all of applicant's consumers were duly notified and given an opportunity to appear and to be heard.

This system was constructed in 1912 by C. A. Jones and transferred by him to W. H. Smith and wife on October 5, 1918, without authority from the Railroad Commission.

By an agreement with the Western Pacific Railroad Company, the Blairsden Water Company's System erected a 5000-gallon tank on the Railroad Company's right of way, into which the overflow from the Railroad Company's water tank is delivered. This constitutes the water supply.

The distribution system consists of 443 feet of 2-inch standard screw pipe and 300 feet of 1-inch standard screw pipe, which delivers water to three consumers between the tank and the Blairsden Hotel, owned by W. H. Smith, and to the Blairsden Hotel. The Blairsden Water Company does not claim ownership of the pipe line beyond the hotel.

It appears that subsequent to the sale of the water system, C. A. Jones left this state and his present whereabouts are unknown. It will therefore be impossible to secure his participation in a joint application for permission to transfer the system, as is provided for by the Public Utilities Act. It further appears that the transfer was made in good faith and with no intent of violating the Public Utilities Act. Under these circumstances it appears that W. H. Smith's title to the water system should be recognized by this Commission.

In 1914 Isadore Riffel and Rial Beaton each paid \$25 to C. A. Jones for the right to connect a pipe line to the Blairsden Water Company's pipe line and to use water therefrom on their premises without any further charge, Riffel and Beaton to furnish all pipe and do all necessary labor without any expense to C. A. Jones. Riffel and Beaton laid the pipe line at their own expense below the hotel and connected with the Blairsden Water Company's System at the hotel. The cost to Riffel and Beaton of laying this pipe line was \$96.

Six consumers, at their own expense, have made connection with Riffel and Beaton's pipe line and have paid their proportion of the original cost of the installation of Riffel and Beaton's pipe line to Riffel and Beaton.

The rates charged consumers have ranged from \$1.50 to \$4.50 per month, depending on water use. There are twelve consumers, including Riffel and Beaton, all on flat rates.

At the time C. A. Jones sold a perpetual water right to free water to Isadore Riffel and Rial Beaton, C. A. Jones had become a public utility. His water supply and system had been dedicated to public use. A private right can not be carved out of a public use. It is therefore impossible to convey to Isadore Riffel and Rial Beaton a private water right out of the supply already dedicated to public use. All consumers, both on the utility line and on the private extension, should pay for water used.

At the hearing it developed that some consumers had not paid for water used for some months because of the question of the Blairsden Water Company's right to collect for service rendered through privately owned pipes.

Applicant did not present an appraisal of his property, but accepted the appraisal of the Railroad Commission's engineer.

Mr. D. H. Harroun, one of the Commission's engineers, presented a report covering the results of a field investigation, an appraisal of the property, and an estimate of the cost of maintenance and operation. His appraisal shows an estimated original cost of the physical properties of the system of \$304 and recommends \$6 as a proper replacement annuity, computed by the 6 per cent sinking fund method. This report also recommends the sum of \$97 as a fair and reasonable estimate of the annual operation and maintenance expense. These estimates appear reasonable and will be used for the purpose of this proceeding.

The following is a summary of the annual charges as indicated above:

Return on \$304 at 8 per cent.....	\$24 00
Replacement annuity, 6 per cent sinking fund.....	6 00
Maintenance and operation cost.....	97 00
Total estimated annual charges.....	\$127 00

The schedule of rates established in the following order is designed to produce annually a sum sufficient to meet maintenance and operating expenses, replacement annuity and to yield to applicant a reasonable return on his investment.

ORDER.

W. H. Smith having made application as entitled above, a public hearing having been held, and the matter having been submitted:

It is hereby found as a fact that the water system at Blairsden, Plumas County, owned and operated by W. H. Smith under the fictitious name of the Blairsden Water Company's System, is a public

utility, subject to the jurisdiction of the Railroad Commission, and that the rates and charges of the Blairsdien Water Company's System, in so far as they differ from the rates herein established, are unjust and unreasonable, and that the rates and charges herein established are just and reasonable rates.

And basing its order on the foregoing finding of fact and on the further statements of fact contained in the opinion which precedes this order;

It is hereby ordered, by the Railroad Commission of the State of California that the Blairsdien Water Company be and it is hereby authorized and directed to file with this Commission within twenty (20) days from the date of this order the following rates, said rates to be charged for all service rendered subsequent to June 30, 1922:

FLAT RATES.

Residence or store	-----	\$0 75 per month
Garage	-----	1 00 per month
Hotel	-----	2 00 per month

It is hereby further ordered, that the Blairsdien Water Company file with this Commission for its approval, within thirty (30) days from the date of this order, rules and regulations to govern its relations with its consumers.

It is hereby further ordered, that the transfer of the Blairsdien Water Company's System heretofore made from C. A. Jones to W. H. Smith be and the same is hereby authorized and confirmed.

Dated at San Francisco, California, this twenty-second day of June, 1922.

DECISION No. 10608.

IN THE MATTER OF THE APPLICATION OF COAST VALLEYS GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS.

Application No. 5094.

IN THE MATTER OF THE APPLICATION OF COAST VALLEYS GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF THREE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS.

Application No. 6204.

Decided June 22, 1922.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

The Railroad Commission by Decision No. 6915, dated November 9, 1919, as amended, in Application No. 5094 and by Decision No. 8409,

dated November 30, 1920, as amended, in Application No. 6204, authorized Coast Valleys Gas and Electric Company to issue, in the aggregate, \$500,000 of its first mortgage forty-year 6 per cent gold bonds due March 1, 1952, and to sell them or to pledge them as collateral to secure the payment of its ten-year 8 per cent collateral trust gold notes due November 1, 1930. The orders of the Commission provide that as the collateral trust notes are paid, any first mortgage bonds pledged as collateral must be returned to applicant's treasury and not deposited again as collateral, except as authorized by the Commission; and further, that in the event of the sale of its first mortgage bonds, the proceeds may be used only for such purposes as the Commission might authorize in a supplemental order.

The company reports that pursuant to the authority granted by the Commission, it deposited \$360,000 of first mortgage bonds as security for \$240,000 of notes. It now states that it has sold \$400,000 of the bonds authorized by orders in the above entitled matter at 90 per cent of their face value plus accrued interest. It asks that the Commission make its order authorizing it to use the proceeds from the sale of these \$400,000 of bonds to retire the \$240,000 of notes at 105 and accrued interest, and to pay for plant extensions, additions and betterments.

The Commission has given consideration to applicant's request and believes that it should be granted, as herein provided.

It is hereby ordered, that the order in Decision No. 6915, dated November 9, 1919, as amended, and the order in Decision No. 8409, dated November 30, 1920, as amended, be and they are hereby modified so as to permit Coast Valleys Gas and Electric Company to use the proceeds from the sale of \$240,000 of first mortgage bonds authorized by said decisions, as amended, to pay in part the cost of redeeming the outstanding \$240,000 of ten-year 8 per cent collateral trust notes due November 1, 1930, and to use the proceeds from \$160,000 of the bonds, the issue and sale of which is authorized by said decisions, to reimburse its treasury and to finance such cost of plant extensions, additions and betterments as is properly chargeable to capital account under the uniform classification of accounts prescribed by this Commission.

It is hereby further ordered, that the order in Decision No. 6915, dated November 9, 1919, as amended, and the order in Decision No. 8409, dated November 30, 1920, as amended, shall remain in full force and effect except as modified by this second supplemental order.

Dated at San Francisco, California, this twenty-second day of June, 1922.

DECISION No. 10609.

MRS. CHARLES PEMBERTON

vs.

ANTELOPE VALLEY TELEPHONE COMPANY.

Case No. 1693.

IN THE MATTER OF THE APPLICATION OF O. F. GOODRICH, DOING BUSINESS UNDER THE FICTITIOUS NAME AND STYLE OF ANTELOPE VALLEY TELEPHONE COMPANY, FOR AN ORDER ESTABLISHING JUST AND REASONABLE RATES FOR TELEPHONE SERVICE.

Application No. 7455.

Decided June 22, 1922.

G. H. Fuller, for Complainants and Protestants.
N. B. Bachtell, for Defendant and Applicant.

BY THE COMMISSION.

OPINION.

Antelope Valley Telephone Company, defendant and applicant, respectively, in the above entitled complaint and application, operates a telephone exchange serving approximately 160 subscribers in the town of Lancaster and in the territory adjacent thereto. The hours during which it provides service to its patrons are from 6 a.m. to 10 p.m. on week days and from 8 a.m. to 12, noon, on Sundays and holidays.

Complaint having been filed with the Commission alleging that these hours of service are inadequate, a hearing was held before Examiner Williams in Lancaster, on December 28, 1921. At this hearing defendant took the position that its present income is not sufficient to enable it to provide additional hours of service and declared its intention to file at once, with the Commission, an application for authority to increase its rates. Complainant and other patrons of defendant having expressed willingness to pay such increase in rates, if any, as the Commission may find, after investigation, to be necessary to compensate defendant for such increase in operating expenses as may be incurred in providing such additional service as may be found by the Commission to be reasonably required, it was agreed that defendant should file its application, whereupon the two matters should be consolidated for further hearing. The application having been filed, a joint hearing was held on April 12, 1922, and both matters are now ready for decision.

With reference to the alleged inadequacy of the present hours of service, it appears from the testimony that there is a necessity for service, usually in emergencies arising from time to time during the hours when defendant's exchange is now closed. This is also alleged

in a petition, which was presented to the Commission prior to the filing of this complaint, and signed by approximately 100 of the defendant's patrons and others. Defendant is willing to extend the hours of service, but claims that to do so it will be necessary to employ additional operators and provide accommodations for their use, to meet the expenses of which the present revenues are inadequate. Defendant has offered in evidence various statements purporting to show the amount of revenues which will be required to provide continuous twenty-four-hour service, and setting forth schedules of rates which are designed to produce the revenues required, together with its estimate of operating expenses. The rates shown in these schedules and those now in effect are as follows:

	Rates proposed by defendant		Rates now in effect	
	Wall set	Desk set	Wall set	Desk set
Business service:				
Main line.....	\$4 25	\$4 50	\$2 75	\$3 00
Two-party line.....	3 75	4 00	2 25	2 50
Four-party line.....	3 25	3 50	2 00	2 25
Ten-party line.....			1 50	1 75
Suburban.....	3 50	3 75	2 25	2 50
Extension sets.....	1 00	1 25	1 00	1 00
Residence service:				
Main line.....	3 00	3 25	2 25	2 50
Two-party line.....	2 75	3 00	2 00	2 25
Four-party line.....	2 25	2 50	1 75	2 00
Ten-party line.....			1 25	1 50
Suburban.....	3 50	3 75	2 00	2 25
Extension sets.....	1 00	1 25	1 00	1 00

An examination of the company's books by the Commission's engineers shows actual operating expenses charged by defendant for the year 1921 amounting to \$4,103.21. Adding taxes, uncollectible revenues and rent expense, brought the total to \$4,674.89. The company has not charged to operating expense and set aside for depreciation reserve the full amount which it should have charged for this purpose. With a proper allowance for this item the total operating expenses, including taxes, uncollectible revenue and rent expense for 1921, would have shown the sum of \$5,001.89. The total revenues for the year were \$6,193.36, leaving a net income of \$1,191.47. In a former proceeding, decided by the Commission May 17, 1920, Application No. 5071, Decision No. 7583, the fair value of defendant's property for rate fixing purposes was found to be \$14,300. Adding to this figure the amount expended by defendant in net additions to date, the present fair value of this property is found to be \$17,834. The net income of \$1,191.47, referred to above, is equivalent to a net return of 6.6 per cent on the latter figure.

It is estimated by the Commission's engineers that operating expenses, together with taxes, uncollectible revenues and rent expense, and

including a proper allowance for depreciation reserve during the year 1922, with no change in the present hours of service, will be approximately \$5,200. Under present rates, gross revenues are estimated at approximately \$6,350. This would leave a net income of \$1,150. Upon completion during the year 1922 of improvements now being made, the total investment allowable as a rate base will be approximately \$18,400. Present rates would therefore earn 6.2 per cent during the year 1922, if operating expenses were not increased above the amount estimated by the Commission's engineers.

From this it is apparent that if present operating expenses are to be increased by extending the present hours of service the least that defendant should be permitted to increase its present revenues would be an amount not less than the added operating expense. In our opinion defendant's rates are as high as they should be for an exchange of the size and character of defendant's present exchange and they do not compare unfavorably with present rates for similar exchanges elsewhere in this state.

Lancaster is a small town where the necessity for twenty-four-hour service is not equally felt by all of the subscribers of the exchange and where the spreading of the added expense through rates over the entire exchange would not result in equal benefit to all of the subscribers. As we have previously stated, the present hours of service are from 6 a.m. to 10 p.m. on week days, and from 8 a.m. to 12, noon, on Sundays and holidays. It does not appear from the testimony that there is at present sufficient justification for the complaint as to inadequacy of these hours of service on week days. To provide a continuous twenty-four-hour service would necessitate an increase in rates to those subscribers who do not require additional service and which, in the circumstances, does not appear to be warranted. However, for those subscribers who are located at considerable distances from town it is a distinct disadvantage to be entirely cut off from telephone communication after 12 o'clock, noon, on Sundays and holidays. This disadvantage, however, can be overcome, without incurring additional operating expense, by closing the office on week days earlier than is now the custom, and by extending the hours thus made available for service on Sundays and holidays.

ORDER.

Complaint having been filed with the Railroad Commission by Mrs. Charles Pemberton that the hours of service now maintained by Antelope Valley Telephone Company are inadequate, and asking for an order of the Commission extending the same; and application having been made by Antelope Valley Telephone Company for an order of the Commission authorizing an increase in rates; public hearings

having been held; the Commission being fully apprised; both matters having been submitted and being now ready for decision;

It is hereby ordered, by the Railroad Commission, that defendant, Antelope Valley Telephone Company, in addition to maintaining its present hours of service, shall within not to exceed ten days from the date of this order, establish, and thereafter and until the further order of this Commission, maintain telephone service from 4 p.m. to 7 p.m. on all Sundays and holidays, provided that defendant may close its office on week days not earlier than the hour of 9.30 p.m., until otherwise ordered or authorized by the Railroad Commission.

It is hereby further ordered, that in all other respects the complaint herein be and it is hereby dismissed.

And the Railroad Commission hereby finds that the present rates of applicant, Antelope Valley Telephone Company, are just and reasonable rates and should be continued in effect.

Basing its conclusions on the foregoing findings and on the other findings referred to in the opinion preceding this order;

It is hereby ordered, that the application herein be and it is hereby denied.

Dated at San Francisco, California, this twenty-second day of June, 1922.

DECISION No. 10614.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA-OREGON POWER COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE ISSUANCE AND SALE OF BONDS.

Application No. 7488.

Decided June 22, 1922.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission, by Decision No. 10009, dated January 21, 1922, is amended, authorized The California-Oregon Power Company to issue and sell, at not less than 88 per cent of their face value plus accrued interest, \$1,000,000 of its Series "B" 6 per cent 20-year first mortgage bonds, subject to the condition, among others, that none of the proceeds be expended except for such purposes as the Commission might authorize in a supplemental order or orders; and

Whereas, the Commission has heretofore authorized applicant to use \$327,561.88 of the proceeds from the sale of its Series "B" bonds to finance, in part, construction expenditures made prior to March 31, 1922, and to pay, in part, the cost of additions to and betterments of

its generating, transmission and distribution systems, the raising of the Copeco dam, the installation of the second unit at the Copeco plant and the construction and completion of the transmission line from Prospect to Eugene, Oregon; and

Whereas, applicant in a supplemental petition, filed in the above entitled matter on June 6, 1922, reports that during the month of April, 1922, it expended for capital purpose the sum of \$236,680.79; and

Whereas, applicant, to finance such expenditures, which are reported in detail in Exhibit "A" attached to its supplemental petition, asks permission to use \$236,680.79 of the proceeds obtained from the sale of its Series "B" bonds;

And the Railroad Commission being of the opinion that applicant's request should be granted as herein provided;

It is hereby ordered, that The California-Oregon Power Company be and it is hereby authorized to use not exceeding \$236,680.79 of the proceeds obtained from the sale of the Series "B" bonds authorized by Decision No. 1009, dated January 21, 1922, as amended, to finance construction expenditures during April, 1922, reported in Exhibit "A" attached to the supplemental petition filed in the above entitled matter on June 6, 1922.

It is hereby further ordered, that the order in Decision No. 10009, dated January 21, 1922, as amended, shall remain in full force and effect except as modified by this second supplemental order.

Dated at San Francisco, California, this twenty-second day of June, 1922.

DECISION No. 10615.

IN THE MATTER OF THE APPLICATION OF THE PICKWICK STAGES, NORTHERN DIVISION, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE STAGE SERVICE BETWEEN LOS ANGELES AND SAN FRANCISCO AND INTERMEDIATE POINTS.

Application No. 3421.

Decided June 22, 1922.

N. C. Folsom and C. F. Wren, for Applicant.

S. V. Wright, for J. E. Price.

J. F. Frick, for L. & J. Stage Line; Red Star Line; Webb Stages; E. C. Craig; Bell & Canfield.

H. A. Euclid, for Pacific Auto Stage Company; Mathen & Lopez, proprietors White Star Line; Clement Brothers, proprietors Yellow Pennant Line; Peerless Auto Stages; and Henry T. Campbell.

E. E. Wade, for Southern Pacific Company.

George G. Seidelmann, for Auto Transit Company.

J. E. McCurdy, for Peninsular Rapid Transit Company.

BY THE COMMISSION.

**OPINION AND ORDER ON ORDER TO SHOW CAUSE ON PROPOSED
MODIFICATION OF PRIOR ORDER.**

In the above entitled proceeding as filed herein on January 30, 1918, the Railroad Commission made its order by Decision No. 5107 under date February 5, 1918, declaring that public convenience and necessity required the operation by applicant of an automobile stage service as a common carrier of passengers and express packages between Los Angeles and San Francisco, the order providing that same should not become effective until said applicant should have filed with this Commission certified copies of permits from the governing bodies of all political subdivisions through which the proposed line would operate between Los Angeles and San Francisco. Under date of May 22, 1918, the Commission issued an order setting a further hearing on the application herein for the purpose of hearing argument upon the question as to whether, under chapter 213, Statutes of 1917, and the order previously made by Decision No. 5107 as decided February 5, 1918, applicant was required to obtain permits from such political subdivisions of this state through which applicant proposed to operate but within the limits of which applicant did not propose to take on or discharge any passengers or express packages. After hearing the Railroad Commission under date July 17, 1918, by its Decision No. 5589, issued a supplemental opinion finding that the statute required a permit from "each political subdivision *within or through* which applicant intends to operate." Under date October 21, 1918, by its Decision No. 5861, the Railroad Commission issued its first supplemental order declaring that certified copies of local permits as issued by the various political subdivisions between Los Angeles and San Francisco had been duly filed with the Railroad Commission in accordance with the provisions of section 3 of chapter 213, Statutes of 1917.

On June 8, 1921, the Railroad Commission issued an order to show cause herein directing applicant to appear before it and show cause, if any it had, why an amendment and modification of the provisions of the second paragraph of the order as heretofore issued by Decision No. 5107 under date February 5, 1918, should not be made by adding the words "and intermediate points" after the clause, "That public convenience and necessity require the operation by Pickwick Stages, Northern Division, a corporation, of an automobile stage service as a common carrier of passengers and express packages between Los Angeles and San Francisco."

A public hearing on the order to show cause was held by Examiner Handford at San Francisco, at which time evidence was received and the matter was duly submitted on briefs filed by interested counsel.

At the hearing on the order to show cause it was agreed that the

matter should be confined to the record heretofore made in this proceeding and the briefs to be filed herein by interested counsel.

Application No. 3421 was originally filed by Pickwick Stages, Northern Division, under date December 31, 1917, the applicant being a copartnership consisting of Charles F., Stella T., and Edith A. Wren. At the hearing on the application on February 4, 1918, the presiding commissioner allowed an amendment to the application as filed January 30, 1918, which substituted the Pickwick Stages, Northern Division, a corporation, for the partnership applicant and expanded the territory sought to be served from Atascadero to San Francisco and intermediate points to between Los Angeles and San Francisco and intermediate points.

A condition in the order of this Commission as issued on Application No. 3436 (Decision No. 5070, dated January 25, 1918), being an application for authority to issue stock by the Pickwick Stages, Northern Division, a corporation, contained the following clause:

(3) The authority herein granted shall not become effective until Pickwick Stages, Northern Division, a corporation, has obtained all necessary permits from public authorities and a certificate of public convenience and necessity from the Railroad Commission as provided for in chapter 213, Laws of 1917.

The provisions of chapter 213, Statutes of 1917, from which this Commission obtained jurisdiction over the regulation of automobile stage companies, made it necessary for all new transportation companies proposing to operate after the effective date of the enactment, to secure a certificate of public convenience and necessity from the Railroad Commission and also permits from the governing bodies of all political subdivisions in the state through which a route passed. There was no method by which a change in ownership of operative rights could be made; an individual could not transfer to another individual, or to a partnership or corporation, without the necessity of securing a new certificate of public convenience and necessity and all the local permits as required by the statutory enactment. This statutory requirement, upon which authority the Railroad Commission based the condition in its Decision No. 5070 on Application No. 3436, as above referred to, made it necessary for the applicant corporation herein to amend its application in accordance with the service proposed to be given and to secure all local permits from the governing bodies of the various political subdivisions.

The original application filed herein referred to the intermediate points proposed to be served between Atascadero and San Francisco as those then on file with this Commission by Pickwick Stages, Northern Division (a copartnership). The tariff on file was Supplement No. 1 to C. R. C. No. 2 of Pickwick Stages, Northern Division, issued December 15, 1917, and effective December 20, 1917, and naming one-way

and round-trip fares between San Francisco and Atascadero and intermediate points and between points between San Francisco and Atascadero and points between Atascadero and Los Angeles. This tariff canceled the fares previously shown in section 5 of Tariff C. R. C. No. 4 and section 4 of Tariff C. R. C. No. 5 issued by the Western Auto Stage Company, Incorporated. The intermediate points shown between San Francisco and Atascadero were San Jose, Gilroy, San Juan, Salinas, Soledad, King City, San Lucas, San Ardo, Bradley, San Miguel and Paso Robles. The intermediate points shown between Atascadero and Los Angeles were San Luis Obispo, Pismo, Arroyo Grande, Santa Maria, Los Alamos, Los Olivos, Santa Ynez, Solvang, Gaviota, Capitan, Santa Barbara, Carpinteria, Ventura, Oxnard, Camarillo and Newberry Park.

In the amended application herein as filed January 30, 1918, applicant filed a statement of rates and points to be served between San Francisco and Atascadero and, as regards the territory between Los Angeles and Atascadero, the proposed rates and schedules to serve the same points as then on file with the Railroad Commission by Pickwick Stages, Northern Division, a copartnership. The intermediate points proposed to be served between San Francisco and Atascadero were San Jose, Gilroy, San Juan, Salinas, King City, San Lucas, San Ardo, Bradley, San Miguel and Paso Robles. Applicant qualified the intermediate points proposed to be served by suitable designations on the exhibit containing proposed rates that no local passengers should be carried between the following points: San Francisco and San Jose; Gilroy and San Jose; San Juan and San Jose; San Juan and Gilroy. Applicant also set up a proposed qualification that between the following points applicant did not hold itself out to handle local passengers, but that such would be handled if they offered for passage and if there were vacant seats available in the cars of applicant at the time schedules left any of the following qualified points: between Salinas and Gilroy; Salinas and San Juan; King City and Salinas; San Lucas and King City; San Ardo and King City; San Lucas and San Ardo; Bradley and King City; Bradley and San Lucas; Bradley and San Ardo; San Miguel and San Lucas; San Miguel and San Ardo; Paso Robles and San Ardo; Atascadero and San Ardo; San Miguel and Bradley; Paso Robles and Bradley; Paso Robles and San Miguel; Atascadero and Bradley; Atascadero and San Miguel; Atascadero and Paso Robles.

The application of Pickwick Stages, Northern Division, a corporation, was not for the establishment of any new service over the route between Los Angeles and San Francisco and intermediate points, such service having previously been given first between the two terminals by the Western Auto Stage Company. Later the Western Auto Stage

Company reduced its operation to service between Atascadero and San Francisco and intermediate points, the service on the portion of the route between Los Angeles and Atascadero being cared for by Pickwick Stages, Northern Division, a copartnership. Upon the withdrawal of the service of the Western Auto Stage Company between Atascadero and San Francisco, the Pickwick Stages, Northern Division, a copartnership, filed tariffs and schedules identical with those previously filed, and of record, in the name of the Western Auto Stage Company and the cancellation of the Western Auto Stage Company's tariffs and schedules was effective on the same date as that made effective by the tariffs and time schedules of the Pickwick Stages, Northern Division, a copartnership. Due to the requirement in the order of the Commission (Decision No. 5070 on Application No. 3436, as decided January 30, 1918), the Pickwick Stages, Northern Division, a corporation, were required to secure a new certificate of public convenience and necessity and local permits from the governing bodies of all political subdivisions through which the route passed, in order that the conditions of the above mentioned order might be complied with and for the reason that, as hereinabove stated, there was no provision in the statutory enactment known as chapter 213, Laws of 1917, whereby a transfer could be made of the operative rights of any then existing stage line.

In view of the fact that the service as proposed by this applicant was not a new service but a continuation by the applicant corporation herein, we are of the opinion and hereby find as a fact that in so far as such establishment of service did not exceed that heretofore given, or serve points beyond those specifically exempted in the exhibit attached to the amended application herein, or points qualified as to service proposed to be given as contained in said exhibit, that to such extent the order of the Commission contained in its Decision No. 5107 on Application No. 3421, as decided February 5, 1918, should be amended to include, with such qualifications as are above referred to, the intermediate points to be served.

ORDER.

A public hearing having been held on the order to show cause as issued by the Railroad Commission under date June 8, 1921, directing applicant herein to appear before it to show cause, if any it had, why an amendment and modification of the order heretofore made herein February 5, 1918 (Decision No. 5107), should not be made so that the terms of the certificate of public convenience and necessity contained in said order should conform to the facts as contained in the record in said proceeding: the matter having been duly submitted, and the Commission being fully advised, and basing its order upon the findings of fact as set forth in the opinion preceding this order;

It is hereby ordered, that the second paragraph of the order heretofore made herein February 5, 1918 (Decision No. 5107), be and the same is hereby amended to read as follows:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by Pickwick Stages, Northern Division, a corporation, of an automobile stage service as a common carrier of passengers and express packages between Los Angeles and San Francisco, and the following intermediate points, to wit: San Jose, Gilroy, San Juan, Salinas, Soledad, King City, San Lucas, San Ardo, Bradley, San Miguel, Paso Robles, Atascadero, San Luis Obispo, Pismo, Arroyo Grande, Santa Maria, Los Alamos, Los Olivos, Santa Ynez, Solvang, Gaviota, Capitan, Santa Barbara, Carpinteria, Ventura, Oxnard, Camarillo and Newberry Park; subject to the conditions and upon the limitations as follows:

1. No local service between either of said termini and any of said intermediate points, or between any of said intermediate points, shall be rendered by said Pickwick Stages, Northern Division, a corporation, the applicant herein, under the authorization herein granted, except as such local service may be furnished by said applicant on its through automobile stages operated in connection with its through service between Los Angeles and San Francisco; and said applicant shall not operate any automobiles or auto stages for the purpose of rendering such local service, or any part thereof, in any manner independently of its through operations.

2. No local business, whatsoever, in the transportation of passengers or express packages shall be conducted by said applicant under the authorization hereby conferred between San Francisco and San Jose, inclusive; between Gilroy and San Jose, inclusive, and between San Juan and Gilroy, inclusive.

Provided, that this declaration shall not become effective until said Pickwick Stages, Northern Division, a corporation, has secured from the Railroad Commission a supplemental order herein reciting that the said Pickwick Stages, Northern Division, a corporation, has filed herein certified copies of permits from the governing bodies of all political subdivisions through which the proposed line will operate between Los Angeles and San Francisco; and provided further, that the rights and privileges herein granted may not be assigned or transferred unless the written consent of the Railroad Commission to such assignment or transfer has first been secured.

It is hereby further ordered, that the terms of the order heretofore made herein February 5, 1918 (Decision No. 5107), shall, in all other respects, remain in full force and effect.

It is further ordered, that the applicant herein shall, within ten (10) days from the effective date of this order, cancel all time schedules and tariffs covering operations between Los Angeles and San Francisco and intermediate points, the authority for which is hereby conferred, and file new time schedules and tariffs consistent with the provisions of this order.

The effective date of this order is hereby fixed as July 6, 1922.

Dated at San Francisco, California, this twenty-second day of June, 1922.

DECISION No. 10616.

J. E. PRICE

vs.

PICKWICK STAGES, NORTHERN DIVISION, A CORPORATION.

Case No. 1322.

Decided June 22, 1922.

AUTO STAGES—OPERATIVE RIGHT—THROUGH AND LOCAL SERVICE.—The Commission holds that the right to operate a through service between fixed termini, whether this right is derived from operations in good faith on May 1, 1917, or is based on a certificate of public convenience and necessity issued by the Commission subsequent to that date, does not necessarily carry with it the right to operate a local service between intermediate points along the route traversed.

S. F. Wright, for Complainant.

N. C. Folsom, for Defendant.

BY THE COMMISSION.

OPINION AND ORDER ON REHEARING.

This proceeding was initiated by the complaint of J. E. Price, operating auto stages as a transportation company between the cities of San Luis Obispo and Paso Robles, alleging in effect, that the Pickwick Stages, Northern Division, a corporation, operating between Los Angeles and San Francisco, had commenced the operation of local stages in competition with the plaintiff, without first having secured the authorization of the Commission by a certificate of public convenience and necessity, declaring that such local operation was required. The Commission, by its order of April 30, 1920, Decision No. 7500, dismissed the complaint. Application for rehearing was filed by the complainant on May 10, 1920, and rehearing granted by an order made herein on November 26, 1921. The rehearing was had on December 19, 1921, before Commissioner Benedict. New evidence was introduced, the matter was argued and now stands submitted upon the entire record.

The facts as presented by the record which are essential to the determination of the issues herein presented may be briefly summarized as follows:

Pickwick Stages, Northern Division, a copartnership, the predecessor in interest of the defendant corporation of the same name, was operating in good faith on and prior to May 1, 1917, between Los Angeles and Atascadero and intermediate points, including both through and local service. Between Atascadero and San Francisco and intermediate points, a transportation company, known as the Western Auto Stage Company, was also operating both a local and through service on and prior to May 1, 1917. In the year 1917 and subsequent to May first of that year, Pickwick Stages, Northern Division, a copartnership, arranged to take over the operations formerly conducted by the Western Auto Stage Company, and on December 31, 1917, applied for a certificate of public convenience and necessity to operate passenger and express service between Atascadero and San Francisco and intermediate points. This application was filed to protect Pickwick Stages in its right to carry on the service in question, no provision being made in chapter 213, Statutes of 1917, for the transfer of operative rights of stage companies. Thereafter, on January 30, 1918, Pickwick Stages, the copartnership, filed a request for dismissal of its application, and at the same time there was filed in lieu of the application thus withdrawn an application by Pickwick Stages, Northern Division, a corporation, the defendant herein, for a certificate of public convenience and necessity covering operations over the entire service from Los Angeles to San Francisco as previously operated by the copartnership and the Western Auto Stage Company. This application, No. 3421, stated that the certificate was sought for the purpose of continuing the service heretofore rendered as above outlined, and asked that the certificate be issued to authorize transportation "between Los Angeles and San Francisco and intermediate points." In its decision on this application (Decision No. 5107), the Commission granted a certificate of public convenience and necessity for operation "between Los Angeles and San Francisco" without expressly referring to service between intermediate points.

The defendant has, from the beginning, operated a through service between Los Angeles and San Francisco. Its right to do so is not questioned. However, in addition to through business, it has carried local passengers between intermediate points on its line, both on through stages and on local stages operating over only a portion of the route. Shortly prior to the filing of the complaint in this proceeding defendant began the operation of such local stages between Paso Robles and

San Luis Obispo, thus coming into sharp competition with the complainant, as a result of which this case was instituted.

The issue here presented is whether or not the defendant has the right, either by virtue of prior operations of its predecessors or by the terms of the certificate granted to defendant itself in Decision No. 5107, to operate its stages for the transportation of local passengers between the intermediate points in question on its through route from Los Angeles to San Francisco.

During the pendency of this case a proceeding was initiated on the Commission's own motion to consider the modification of the order contained in Decision No. 5107. By our Decision No. 10615, rendered today, we have modified the terms of the certificate as originally granted in Decision No. 5107, to authorize certain of defendant's local operations. Such modification of the certificate may have the effect of determining the controversy in this case. Notwithstanding this fact, however, we believe it desirable, in view of the importance of the questions herein presented and of the doubt which has apparently existed heretofore concerning the right of a transportation company to carry on local operations as an incident to operative rights over a through route, to clearly set forth our conclusions on this point.

We believe it is clear that the defendant has no valid claim to operative rights by reason of any prior operations of its predecessors, carried on in good faith on or before May 1, 1917. At the time defendant took over the operation of its predecessors (the copartnership and the Western Auto Stage Company), no provision had been made in the regulatory statute (chapter 213, Statutes 1917) for the transfer of operative rights. The law then provided, in effect, that no person or corporation should begin the operation of auto stages as a transportation company without first obtaining a certificate of public convenience and necessity. Defendant had no right to take over the prior operations and in its own name begin operations except as and to the extent authorized by such certificate. "It is settled law that a transfer of property used in a public service from one corporation to another, although made by a corporation having power to convey, is invalid unless the transferee has the power to accept the property and continue the use to which it has been devoted." (*So. Pasadena vs. Pasadena Land, etc. Co.*, 152 Cal. 579, 588.)

As above stated, the application filed by the defendant in the proceeding upon which this certificate was issued sought the right to operate "between Los Angeles and San Francisco and intermediate points." The order of the Commission, made after hearing and the submission of evidence, granted a certificate for operation between Los

Angeles and San Francisco, but made no reference to intermediate points. The defendant was not authorized, under the terms of this certificate, to initiate the local service between San Luis Obispo and Paso Robles herein complained of. Section 5 of chapter 213, Statutes 1917, under which certificates of this character are granted, contains the following provision:

The Railroad Commission shall have power with or without hearing to issue said certificate as prayed for, or to refuse to issue same, or to issue it for the partial exercise only of the privilege sought * * *.

The order granting the certificate omitting, as it did, any reference to intermediate points, must be construed as authorizing a through service only between the termini of Los Angeles and San Francisco. It is to be presumed that the Commission, in granting the certificate for operation between Los Angeles and San Francisco, without reference to intermediate points, acted in accordance with the provision of the statute above quoted in the issuance of a certificate "for the partial exercise only of the privilege sought."

The right to operate a through service between fixed termini, whether this right is derived from operations in good faith on May 1, 1917—and hence, based upon a voluntary undertaking of a particular character of service, or is based upon a certificate of public convenience and necessity issued by the Commission subsequent to that date—does not necessarily carry with it the right to operate a local service between intermediate points along the route traversed. The right to operate such a local service depends, in the first instance, upon the character of operations actually being carried on in good faith on May 1, 1917, as evidencing the intention of the stage company to operate locally, and in the second instance, upon the language of the certificate issued by this Commission, showing that the local operation was authorized in addition to the through service. We do not deem it essential that a certificate, to include authorization of intermediate local service, must name each and every stopping point along the route traversed to the exclusion of all other possible intermediate stops. The method most commonly used by this Commission to authorize an intermediate local service is to include in its certificate, declaring that public convenience and necessity require the operation between named termini, the qualifying phrase "and intermediate points." Such a certificate clearly authorizes the holder thereof to operate both the through service and such intermediate service as may be necessary to properly serve the traveling public. In connection with operations so authorized, the carrier may, from time to time, initiate, or the Commission,

in the exercise of its regulatory power, may require changes in time schedules, new or different service to intermediate points and the use of additional cars for either local or through service in order to render adequate and efficient service.

In the present case, the certificate granted to Pickwick Stages on its Application No. 3421, Decision No. 5107, contained no qualifying language to show that any other than a through service between termini was authorized. This being so, we conclude that our prior order herein, Decision No. 7500, dismissing the complaint, should be reversed.

It becomes unnecessary, in view of the above stated reasons for our conclusion, to discuss the other points raised by the complaint and referred to in our former opinion. We deem it proper to add that the statements contained herein are not to be deemed as a modification in any respect of our Decision No. 10615, rendered this day, amending the certificate of public convenience and necessity granted to defendant under Decision No. 5107, nor as a modification in any respect of such operative rights as the defendant may have acquired otherwise than by the certificate granted by said Decision No. 5107 as now modified.

ORDER.

A rehearing having been granted herein pursuant to application therefor by complainant, filed May 10, 1921, a further hearing having been held, additional evidence received and the matter submitted;

It is hereby ordered, that the order heretofore made herein on April 30, 1921, dismissing the complaint, be and the same is hereby vacated.

It is further ordered, that the defendant cease operating and, until otherwise ordered by this Commission, desist from operating any automobile, auto truck or auto stage for the transportation of persons or property, as a common carrier, for compensation, between the termini of Paso Robles and San Luis Obispo, or between either of said termini and any intermediate point, or between any intermediate points between said termini, except as authorized by the terms of the certificate of public convenience and necessity contained in Decision No. 5107, as modified by Decision No. 10615, rendered this twenty-second day of June, 1922.

The effective date of this order is hereby fixed and designated as July 6, 1922.

Dated at San Francisco, California, this twenty-second day of June, 1922.

DECISION No. 10619.
PIEDRA ROCK COMPANY, A CORPORATION,
vs.
SOUTHERN PACIFIC COMPANY, A CORPORATION, ATCHISON, TOPEKA
AND SANTA FE RAILWAY COMPANY, A CORPORATION.

Case No. 1645.

Decided June 23, 1922.

RATES—RAILROAD—TWO-LINE HAUL.—Railroad Commissions generally, as well as the Interstate Commerce Commission, have recognized the principle that a two-line haul is entitled to a proportionately higher rate than a one-line haul.
RATES—GEOGRAPHICAL LOCATIONS—MARKETING CONDITIONS—COMMERCIAL HANDICAPS.—The Commission reiterates its position, frequently announced in the past, that in rate proceedings it can not equalize geographical locations or marketing conditions nor relieve commercial handicaps.

Saunborn, Rockl and Smith and Jas. A. Keller, for Complainant.
Elmer Westlake, Frank B. Austin and J. E. Lyons, for Southern Pacific Company.
E. W. Camp, Platt Kent and B. Levy, for The Atchison, Topeka and Santa Fe Railway Company.

George S. Strait, for the County of Los Angeles.

B. H. Carmichael, for the County of Kern.

G. H. Baker and H. C. Asher, for Grant Rock and Gravel Company, Intervenor.

BY THE COMMISSION.

OPINION.

This is a proceeding in which the Piedra Rock Company, a corporation, makes complaint that the local and joint rates maintained by the Southern Pacific Company and the Atchison, Topeka and Santa Fe Railway Company on crushed rock from Piedra to points on defendants' lines within the State of California are excessive, unjust and unreasonable, in violation of section 13 of the Public Utilities Act, and discriminatory and prejudicial, in violation of section 19 of the Public Utilities Act, and subject complainant to great hardship, loss and disadvantage. Complainant prays that the defendants be required to cease and desist from the aforesaid violation of the law, and petitions the Railroad Commission to prescribe in place of such alleged unlawful rates, just, reasonable and nondiscriminatory rates.

Hearings were held on November 9 and 10, 1921, and January 30, 1922. On the latter date the case was submitted on briefs. The closing brief of complainant was filed April 20, 1922, and the matter is now ready for opinion and order.

The Piedra Rock Company, located at Piedra, a point on the Atchison, Topeka and Santa Fe Railway Company's lines, 16.8 miles from Reedley and 39.8 miles from Fresno, sells its products, the testimony shows, as far north as Merced on the Santa Fe and in the vicinity of Bena on the south, a point located on the joint track of the Southern Pacific and the Santa Fe.

Crushed rock is one of the lowest grades of freight. It moves in large volume, usually for short distances, loads to capacity and is practically free from loss and damage. Very low freight rates are necessary in order to assure free movement. It is a commodity that is produced practically all over the state and comes in competition with other commodities, such as gravel and crushed gravel, which are frequently used as substitutes for crushed rock. In the northern central part of the state there are crushed rock plants at Fair Oaks, Natomas, Eliot, Logan, Niles and Dwight. At least two of these northern central plants are owned by the same interests as own the complainant's plant. These northern central plants compete for business in the San Joaquin Valley as far south as the freight rates from the southern central California plants will permit. The southern central California plants are located at Friant, on a branch line of the Southern Pacific, and at Piedra and Woodrock, on the Piedra branch of the Santa Fe, two or three small plants on the west side of the Stockton division of the Southern Pacific and at Solo on the Santa Fe.

It was testified that the price of crushed rock and crushed gravel at all of these producing points is practically the same and, therefore, the rate has considerable to do with restricting the territory within which any one plant can market its product.

Complainant contends it can not absorb more than 10 cents per ton and be able to compete with another plant whose rate is more than 10 cents per ton lower than complainant's rate. The first railroad running through the San Joaquin Valley was the Southern Pacific and the principal towns were built on or adjacent to that company's lines, and the testimony showed that a large percentage of the rock products originated by the complaint is consigned to the Southern Pacific stations in the San Joaquin Valley. The complainant's plant is, therefore, at a disadvantage on account of being located on the Santa Fe.

The complainant stated that rates on crushed rock are based upon an unpublished mileage scale adopted by both the Southern Pacific and the Santa Fe for business local to their lines. It has, however, been the practice of these two carriers, Southern Pacific Company and the Santa Fe, when publishing a joint rate for a two-line haul, to add 20 cents per ton to the one-line mileage basis.

On the first day of the hearing in this proceeding the Grant Rock and Gravel Company filed a petition in intervention, and later a petition for further hearing, contending that serious and irreparable injury may be done to intervenor while a complaint of its own might be pending. A further hearing was granted upon the petition of the intervenor and a hearing held on January 30, 1922.

The contention of the intervenor, Grant Rock and Gravel Company, was that its plant, being located at Friant, a distance 24.4 miles from

Fresno, would be affected by any adjustment of rates at Piedra, the intervenor being in keen competition with the complainant.

The complainant suggested as a rate for a two-line haul from Piedra on the Santa Fe, via Fresno or Visalia, to points on the Southern Pacific the one-line mileage scale, plus 10 cents per ton, but not to exceed the rates from Dwight, six miles from Oakland on the Santa Fe, for a similar distance.

It was claimed by the complainant that no greater service is performed by the Santa Fe and Southern Pacific Company on shipments originating at Piedra and destined to points on the Southern Pacific than was performed on shipments from Dwight, turned over to the Southern Pacific at Oakland for movement to a point on that line. The complainant further stated that it had lost business in several instances on account of its freight rate being more than 10 cents per ton higher to the same point than the freight rate of its competitor. The complainant's plant at Piedra, on the Atchison, Topeka and Santa Fe, is 15.4 miles farther distant to consuming destinations north of Fresno than its competitor's plant at Friant. The complainant also called attention to the rates from a competing plant at Woodrock, four miles nearer to points of distribution than Piedra, showing that in many instances there are lower rates from the point only four miles from complainant's plant than enjoyed by the complainant. An official of the Santa Fe, called as a witness by the complainant, testified that his line is willing to blanket the rates on crushed rock from Piedra to points on the Southern Pacific, and since this case was submitted the Santa Fe has published the same rates from Piedra as apply from Woodrock, thereby taking care of that part of this complaint.

A substantial part of plaintiff's exhibits filed in this proceeding compared the rates from Piedra with the rates from Dwight and Woodrock, but did not compare rates from Piedra with the rates of its principal competitor at Friant.

The evidence was to the effect that the Santa Fe, in order to allow the product of the quarry at Dwight to be given as large a circulation as possible and in order to keep the quarry operating at full capacity, made rates into Oakland in competition with rock reaching Oakland by water from a quarry at Richmond and from other quarries shipping into Oakland by barge. This permitted the Dwight quarry to make prices and bids on rock for points on the Southern Pacific in competition with local rock from what was known as the Leona quarry and with quarries shipping rock by water. The testimony also showed that the operation of getting the rock from the Dwight quarry into the Oakland yard, where it was turned over to the Southern Pacific, was

practically a yard operation. It will therefore be seen that the Dwight rates are on a low basis to meet water competition and the competition from quarries located in the city of Oakland, Leona Heights, on the San Francisco-Oakland Terminal Railways, and in these respects at least are not fairly comparable with the rates from either Piedra or Friant.

Intervenor's witness, who is sales manager for the plant at Dwight, testified that his plant ships as far as Stockton on the Atchison, Topeka and Santa Fe, and as far as Martinez, San Jose and Redwood City on the Southern Pacific Company lines, but that these points are the farthest where they could do business before meeting competition of other quarries operating under the minimum rate. The same witness testified that the Dwight plant could not reach San Joaquin Valley points account of too high rates (Trans. 200). Complainant's witness said: "It is impossible for Dwight to do any business in the southern part of the San Joaquin Valley" (Trans. 37).

In view of the above testimony, it would seem there is actually no competition whatsoever between the plants at Dwight, on the one hand, and those at Piedra on the other hand.

The defendant, Southern Pacific Company, filed exhibits indicating that its joint rates from Piedra are almost uniformly 20 cents higher per ton for a two-line haul than for the same distance for a one-line haul on its own line. The evidence also indicated that the defendant, Southern Pacific Company, would be required to short-haul itself if compelled to equalize the rates from an off-line shipping point with rates from a shipping point local to its line.

Railroad Commissions generally, as well as the Interstate Commerce Commission, have recognized the principle that a two-line haul is entitled to a proportionately higher rate than a one-line haul.

In 33 I. C. C. 163, in the case of *Meridian Fertilizer Factory vs. A. and S. Railway Co.*, an arbitrary of 2 cents per 100 pounds for a two-line haul over a one-line haul was established. In that opinion it was stated the Commission has on various occasions recognized it is just and reasonable for two or more independent lines, not part of the same management or making up a through route, to charge a somewhat higher rate for a two-line haul than would be deemed reasonable for a single-line haul of equal distance.

In 28 I. C. C. 264, being a rehearing in the matter of *Sheridan vs. C. B. and Q. R. R.* in the above entitled proceeding, the Commission confirmed its previous conclusion allowing a higher rate for a two-line haul than for a one-line haul for distances within 500 miles.

In 39 I. C. C. 124, the Commission says: "It is a well established principle of rate making that ton-mile earnings properly may decrease as the length of the haul increases, and that ordinarily rates for a one-line haul may be lower than for a movement over two or more lines." The commodity involved in that proceeding was brick.

In 43 I. C. C. 632, the Commission says: "Other things being equal, the rate for a two-line haul may properly be higher than the rate for a single-line haul * * *."

In 44 I. C. C. 669, the Commission says: "Ordinarily the rate for a one-line haul should be lower than the rate over a three-line route * * *."

In 50 I. C. C. 43, *Royster Guano Company vs. A. C. L. R. R. Co.*: "Somewhat higher rates for hauls over routes composed of two or more lines not under a common management and control are reasonable."

The Commission, in the case cited immediately above, prescribed mileage rates for one-line hauls and for two-line hauls and used this language: "For hauls over two or more lines of railway that are not under the same management or control 20 cents per ton may be added to these rates." The commodity in the foregoing proceeding was fertilizer.

In 2 C. R. C. 241, in 1913, this Commission refers to the contention of carriers that "Where rates are to be made over two connecting lines is more expensive to the carriers in the aggregate than a single movement over one line between the same points."

Furthermore, a two-line haul rate that is less than a combination of locals is obviously less remunerative to either participating company than a haul local to one line. The revenue must be divided and in all cases when such two-line haul revenue is split, one or the other or both of the lines must shrink their locals. So the question resolves itself into: What is a reasonable additional charge for a two-line haul as compared to a one-line haul? An analysis of the joint rates contained in the tariffs filed by the various carriers with the Railroad Commission shows that almost invariably the joint rates are higher on rock, sand and gravel than are the local rates for the same distances, but not so high as a combination of locals.

Defendant Southern Pacific Company's witness testified that the basis of division of rates between the Atchison, Topeka and Santa Fe and the Southern Pacific Company on business from Dwight is on a mileage pro rate, with a minimum of 23 per cent. As an illustration of the result of the application of such a basis: The distance from Dwight to Oakland is 6 miles; Oakland to Neroly 53 miles; through Dwight to Neroly 59 miles. The rate is 5 cents per 100 pounds, or \$1

per ton. On the above method of division the Atchison, Topeka and Santa Fe would receive out of the through rate of \$1 per ton 23 cents per ton and the Southern Pacific Company would receive the balance, or 77 cents per ton. Now, if the Southern Pacific Company were to receive its local it would receive on the mileage scale for 53 miles 80 cents per ton and the Santa Fe 60 cents per ton. If the rate were a combination of locals, based on the one-line mileage scale, the rate would be 60 cents per ton Dwight to Oakland and 80 cents per ton Oakland to Neroly, or a through rate of \$1.40 per ton as compared to a through rate based on the one-line mileage scale, plus 20 cents, or \$1 per ton.

Had the rate between Dwight and Neroly been constructed on the basis of combination of locals less the Kelly deduction, as referred to by complainant's witness at page 9 of the transcript, in this case, the rate would have been \$1.20 per ton. Had the rate been constructed in the manner suggested by the complainant, that of one-line mileage scale applied to the total distance, plus 10 cents per ton, it would have been 90 cents, so it would appear that the present rate is at least a happy medium.

The defendant, Southern Pacific Company, filed an exhibit (Defendant Southern Pacific Company's Exhibit B) showing rates on crushed rock from Piedra to points in California on the Southern Pacific lines, compared with two-line haul rates in other territories for the same distance, in part as follows:

Rates in Dollars Per Ton of 2000 Pounds.

	Rate		Rate
Piedra to Blossoma, 43 miles.....	\$0 90	Piedra to Gadwall, 103 miles.....	\$1 30
Oregon distance rates.....	1 00	Oregon	1 60
Washington distance rates.....	1 30	Washington	1 90
Iowa distance rates.....	956	Iowa	1 432
Memphis Southwestern, class E	3 60	Memphis	5 00
Piedra to Reka, 56 miles.....	1 00	Piedra to Turlock, 119 miles.....	1 30
Oregon distance rates.....	1 10	Oregon	1 70
Washington distance rates.....	1 40	Washington	2 00
Iowa distance rates.....	1 08	Iowa	1 512
Memphis Southwestern, class E	3 90	Memphis	5 20
Piedra to Fargo, 60 miles.....	1 10	Piedra to Modesto, 132 miles.....	1 40
Oregon distance rates.....	1 20	Oregon	1 90
Washington distance rates.....	1 50	Washington	2 10
Iowa distance rates.....	1 12	Iowa	1 592
Memphis Southwestern, class E	3 90	Memphis	5 80

NOTE—Arbitrary for two-line haul:

Oregon distance scale.....	20 cents per ton
Washington distance scale.....	20 cents per ton
Memphis S. W., class E, distance scale	50 cents per ton
Southern Pacific..Proposes uniform	20 cents per ton

Tariff reference:

P. F. T. B.....	30-D
No. Pac. F. T. B.....	25-C
W. T. L. Trf.....	160
Mfs. Vol. 62, ICC.....	596

The following table shows the rate now in effect and illustrates the one-line haul mileage rate compared to the two-line haul joint rate:

Rates Shown Are Published in P. F. T. B.—C. R. C. 258.

Rates in Cents Per 100 Pounds.

From	To	Route	Miles	Present rate	One-line haul mileage scale
Bellotta	Pittsburg	S. T. & E. Ry. and A., T. & S. F.	54	5	4
Bellotta	Tracy	S. T. & E. Ry. and S. P. Co.	39	4	3
Bellotta	Escalon	S. T. & E. Ry. and T. S. Ry.	40	4	3
Bellotta	Lyoth	S. T. & E. Ry. & W. P. R. R.	39	4	3
Dwight	Neroly	A., T. & S. F. and S. P. Co.	59	5	4
Fair Oaks	Riverbank	S. P. Co. and A., T. & S. F.	79	5½	4½
Fair Oaks	Merced	S. P. Co. and A., T. & S. F.	119	6½	5½
Fair Oaks	Fresno	S. P. Co. and A., T. & S. F.	177	8	7
Friant	Planada	S. P. Co. and A., T. & S. F.	73	5½	4½
Solo	Turlock	S. P. Co. and A., T. & S. F.	98	6	5
Terminus	Hardwick	Visalia Elec. and S. P.	53	5	4
Fair Oaks	Oroville	Via S. P. Co.		*5	5
Fair Oaks	Oroville	S. P. Co. and Sac. No. Ry.	96	6	5
Piedra	Hanford	A., T. & S. F. and S. P. Co.	62	5	4½
	Delano	A., T. & S. F. and S. P. Co.	90	6	5
	Buttonwillow	A., T. & S. F. and S. P. Co.	155	7	6½

*In Southern Pacific Co. C. R. C. 2673.

The complainant in this proceeding urges that the difference in freight rates has kept it out of important markets and that competitors whose rates were only slightly lower secured the business, thereby implying, at least, that to a greater or less extent the difference in freight rates represents the amount of its handicap. But the transportation rate is only one of the factors in a shipper's selling price; there are numerous other cost factors affecting the shipper's price in laying down his product at a certain destination. Fundamentally and most important of these factors is, probably, the cost of production, such as labor, and all of the other elements which combine to make up the cost of the commodity in question.

The cost of production was touched upon but little in the testimony, no figures were produced and the only evidence running to ultimate cost of the product to the shipper was a statement that one of the quarries had to blast for its rock, while the other secured its raw material from a river bed.

The fact can not be overlooked that though a plant is located at a distance from important markets, such location has, presumably, been selected advisedly and due consideration given to the question whether its remoteness from these markets is balanced by compensating economies not available near the destinations.

The evidence also indicated that there is a large volume of shipments moving from quarries of the complainant, as well as its competitors, to the same general territory, and which we believe is indicative of the fact that the freight rate is not the only question involved in the securing of that business.

Since this case was submitted the Interstate Commerce Commission has rendered its report in Docket 13293, Reduced Rates 1922, reducing interstate freight rates in general throughout the country, including rock, sand and gravel, approximately 10 per cent.

This Commission has already had a conference with the carriers' representatives and has succeeded in having them agree to make the same reduction in state rates as are made in the interstate rates, to become effective July 1, 1922.

No substantial evidence was offered assailing the volume of the local or joint rates and nothing appears upon this record to indicate that complainant is in any way prejudiced or suffers any disadvantage in its business by reason of the rates attacked and if the complainant does suffer a handicap it is by virtue of its geographical location as related to its markets. This Commission has repeatedly held that it can not equalize geographical locations or marketing conditions nor relieve commercial handicaps.

The above findings are without prejudice to the conclusion which may be reached in any other proceeding as to the general level of rates on crushed rock in the State of California.

In reaching our conclusion we have taken into consideration that while the present joint rates of the carriers, defendants in this proceeding, are not on a uniform basis, they are, however, to a marked degree based upon an arbitrary over a one-line haul rate. The evidence indicates that the existing joint rates compare favorably with like rates in other territories for comparative distances where traffic conditions are similar, and our conclusion is that the rates assailed are not unreasonable, unjust nor unduly prejudicial or discriminatory, and an order in harmony with that conclusion will be rendered.

ORDER.

This case being at issue upon complaint and answer on file and having been duly heard and submitted by the parties, a full investigation of the matters and things involved having been had, our findings of facts and conclusions thereon are contained in the above opinion;

It is hereby ordered, that the complaint in this proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this twenty-third day of June, 1922.

DECISION No. 10620.
THE WHITE LINES
vs.
H. ENGLER.

Case No. 1708.
Decided June 23, 1922.

W. J. Quinn, for Complainant.

T. B. Scott, for Defendant.

L. M. Bradshaw, for Southern Pacific Company, Intervenor in behalf of Complainant.

BY THE COMMISSION.

OPINION.

In this proceeding, The White Lines, a corporation, complains of defendant and alleges that since October 1, 1921, said defendant has been engaged in hauling butter from the Milk Producers Association at Modesto to the city of Stockton; that said defendant is transporting such commodity without having secured from the Railroad Commission a certificate of public convenience and necessity as required by chapter 213, Statutes of 1917, and amendments thereto, and that complainant, operating under the authority of a certificate duly secured from the Railroad Commission, is able to render proper and adequate service and at reasonable rates in the transportation of such commodity. Complainant asks that defendant be restrained from any further operation as a freight carrier between Stockton and Modesto or any other points covered by the certificate of public convenience and necessity as heretofore issued by this Commission to said complainant.

Defendant filed answer denying the material allegations of the complaint.

A public hearing on this matter was conducted by Examiner Handford at Modesto, at which time the matter was duly submitted and is now ready for decision.

The evidence at the public hearing indicates that defendant, H. Engler, has been running a truck since October, 1921, hauling butter from the plant of the Milk Producers Association at Modesto to Stockton, such commodity moving from Stockton to San Francisco via river steamers, also that occasionally shipments have been transported between Stockton and Modesto, principally potatoes and fruits, such shipments being mainly for the account of the firm of Thompson-Matteson and Hansen. Mr. Engler testified that he had no contract with Thompson-Matteson and Hansen, and that his estimate of the number of loads hauled for them did not exceed eight or ten in an eight months' period; that his operation in the carriage of butter for the Milk Producers Association was conducted daily and that an

average of five tons per day were moved for which he received compensation at the rate of three dollars per ton.

The operation has been regular since October 4, 1921, and has been conducted daily; in some few instances no Sunday operation was given, although when no trip was made on Sunday two trips were made on the following Monday. Defendant further testified that his entire time was given to the hauling against which the complaint is directed.

Although defendant claims to have had his attention directed to the violation of the statutory law and had consulted counsel relative to complaints and to a letter written by the district attorney's office of San Joaquin County, the evidence in this proceeding clearly indicates that since October 4, 1921, defendant has conducted his operation in violation of the provisions of chapter 213, Statutes of 1917, and amendments thereto, in that he has been engaged in the business of transportation of property for compensation over public highways, between fixed termini and over a regular route, and such operation has been given without defendant first having secured a certificate of public convenience and necessity as required by the provisions of section 5 of the above mentioned statutory enactment and amendments thereto.

ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and now ready for decision;

It is hereby ordered, that defendant, H. Engler, immediately cease and discontinue the operation of an automobile truck as a carrier of property for compensation over the public highways between Modesto and Stockton.

Dated at San Francisco, California, this twenty-third day of June, 1922.

DECISION No. 10621.

NEVADA-CALIFORNIA-OREGON RAILWAY

vs.

WEBB PINNEO.

Case No. 1766.

IN THE MATTER OF THE APPLICATION OF WEBB PINNEO FOR A
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO
OPERATE AUTO STAGE SERVICE BETWEEN SUSANVILLE, CALI-
FORNIA, AND OREGON-CALIFORNIA STATE LINE, VIA ALTURAS.

Application No. 6721.

Decided June 23, 1922.

Arthur B. Roehl, for Complainant.

Grover C. Julian, for Defendant and Respondent.

E. T. Auble, for Modoc County Development Board.

BY THE COMMISSION.

OPINION.

The above complaint alleges that defendant, Pinneo, who was authorized by Decision No. 9497 of September 12, 1921, in the above entitled Application, No. 6721, to operate a passenger stage line between Susanville and the California-Oregon state line, serving Alturas, Termo, Madeline, Likely, and Canby, as intermediate points, did not file written acceptance of the certificate granted in the Commission's decision and order, and did not begin operation within thirty days from its date, both of which were required by the Commission's order; and that defendant did not apply for or receive an extension of time in which to begin operating; but that he did illegally begin operation about May 1, 1922.

After the filing of the above complaint the Commission ordered the defendant to show cause why the certificate granted to him under said Decision, No. 9497, should not be revoked.

A public hearing on both matters was held by Examiner Westover at Susanville, at which it appeared from applicant's testimony that he began operating without authority in the summer of 1920, and operated a line between Susanville, California, and Klamath Falls, Oregon, via the California points, above mentioned, and that the line was operated for about sixty days, during which he served between Susanville and Alturas locally. The following season, of 1921, he began operating May 1, and continued until September 10, 1921, when he ceased operating without apparent reason. Regular operation began again May 14, 1922, and still continues. During all of these periods defendant operated locally between California points as well as a through and interstate service.

Following the granting of authority on September 12, 1921, he did not file any acceptance of the authority, nor any tariff of rates, but did file on October 1, 1921, a time schedule, which was within the twenty days limited by the Commission's order, but the time schedule provided for operation beginning May 1, 1922, and there was no operation within the thirty days limited by the order.

Applicant proposed at all times to operate only between May first and November first in each year when the roads were in best condition, and not to operate during the winter season, during which the roads are said to be at times impassable. The Commission's order, however, did not authorize seasonal operation, and even if it had done so, Mr. Pinneo made no effort to operate between September 12 and November 1, 1921.

It clearly appears that all of the operations of defendant and respondent during the seasons, 1920, 1921 and 1922, have been illegal and unauthorized.

It further appeared at the hearing that while defendant has operated three round trips per week between the California points referred to and Klamath Falls, the Nevada-California-Oregon Railway Company, whose line be paralleled between Termo and the state line, now operates a daily round trip service over its line, and that it affords reasonably good connections at Wendell with Southern Pacific trains and also with an authorized stage line, both serving between Susanville and Wendell.

The Modoc County Development Board protests the California operation of defendant's line upon the ground that the railroad needs all the revenue it can get in order to justify service, that the railroad is vital to the development of Modoc and Lassen counties, and that the public interest requires that it should be protected against unlawful competition.

The railroad company showed that it is operating at a considerable deficit, and needs the revenue which is being diverted by the stage line.

It is clear that the illegal operation providing service between California points should be ordered stopped, but that the order should not interfere with interstate service between points in California on the one hand and points in Oregon on the other hand.

ORDER.

A public hearing having been held upon the above entitled matters, the evidence having been taken, and both matters submitted and being now ready for decision;

It is hereby ordered, that the authority contained in the Commission's Decision No. 9497 of September 12, 1921, upon Application No. 6721 be and it is hereby revoked.

It is hereby further ordered, that Webb Pinneo forthwith cease operating the passenger stage service between Susanville, Termo, Madeline, Likely, Canby and all other intermediate points between Susanville and the California-Oregon state line.

Nothing herein contained, however, shall affect the right of said Pinneo to operate between points in California on the one hand and points in Oregon on the other hand.

Dated at San Francisco, California, this twenty-third day of June, 1922.

DECISION No. 10625.

IN THE MATTER OF THE APPLICATION OF CITY RAILWAY COMPANY
OF LOS ANGELES, A CORPORATION, FOR AN ORDER AUTHOR-
IZING THE ISSUE OF BONDS.

Application No. 7822.

Decided June 23, 1922.

R. O. Crowe, for Applicant.

BENEDICT, *Commissioner*.

OPINION.

City Railway Company of Los Angeles asks permission to issue \$804,000 of its first mortgage 5 per cent bonds dated February 1, 1911, and to deliver them at face value to Los Angeles Railway Corporation in payment of indebtedness representing moneys advanced to applicant by Los Angeles Railway Corporation and invested in fixed capital.

The record shows that City Railway Company of Los Angeles was organized on or about December 1, 1910, for the purpose of financing and constructing lines of street railway in the city of Los Angeles. All of applicant's outstanding stock, except shares necessary to qualify directors, is owned by Los Angeles Railway Corporation. Its properties are operated by Los Angeles Railway Corporation under a lease dated August 25, 1911, and terminating February 1, 1941, by the terms of which Los Angeles Railway Corporation has agreed to keep the properties in repair; to pay all operating expenses; all licenses, taxes or assessments levied upon the properties of City Railway Company of Los Angeles; all interest and other fixed charges, including all sums required to be provided as a sinking fund for the purpose of paying off the principal of applicant's bonds, and to keep fully insured all of the personal property, buildings, structures and appliances of every kind for the benefit of City Railway Company of Los Angeles.

Applicant reports that it has an authorized bonded indebtedness of \$5,000,000 of 5 per cent bonds dated February 1, 1911, and maturing on February 1, 1941, and that of this amount \$4,196,000 of bonds have been issued and are outstanding. It now asks permission to issue the remaining \$804,000 of bonds in repayment of cash advances made by Los Angeles Railway Corporation.

It appears that Los Angeles Railway Corporation has advanced applicant \$1,352,463.10 which has been expended in construction work and for additional equipment, and that Los Angeles Railway Corporation is willing to accept applicant's bonds, at their face value, in partial payment of such advances.

Applicant's reported construction expenditures have been examined by the Commission's department of finance and accounts, and its Engineering department. Reports submitted by these departments show that applicant has incurred construction expenditures considerably in excess of \$804,000, the amount of bonds it desires to issue.

I herewith submit the following form of order:

ORDER.

City Railway Company of Los Angeles having applied to the Railroad Commission for permission to issue bonds, a public hearing having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose specified herein and that the expenditures for such purpose are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that City Railway Company of Los Angeles be and it is hereby authorized to issue \$804,000 of its first mortgage bonds and to deliver them at not less than face value to Los Angeles Railway Corporation in part payment of indebtedness representing moneys advanced by Los Angeles Railway Corporation to applicant and used by applicant to acquire and construct the railway properties referred to in this application.

The authority herein granted is subject to further conditions as follows:

1. City Railway Company of Los Angeles shall keep such record of the issue and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$804.

3. The authority herein granted will apply only to such bonds as may be issued and delivered on or before November 30, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of June, 1922.

DECISION No. 10633.

IN THE MATTER OF THE APPLICATION OF GRANGE WAREHOUSE
AND STORAGE COMPANY FOR PERMISSION TO ISSUE STOCK
AND BORROW MONEY.

Application No. 7969.

Decided June 28, 1922.

Dennett and Zion, for Applicant.

BENEDICT, Commissioner.

OPINION.

Grange Warehouse and Storage Company asks permission to issue \$240,000 par value of stock and to borrow not exceeding \$150,000 for purposes hereinafter indicated.

Applicant corporation was organized on or about June 10, 1922, with an authorized capital stock of \$240,000 divided into 2400 shares of the par value of \$100 each.

The company was organized for the purpose of acquiring the warehouse properties of The Grange Company.

Applicant asks permission to issue \$239,500 of its stock for the purpose of acquiring the properties described in this application and issue five shares of its stock to qualified directors.

There has been filed in this proceeding a schedule showing the location of the warehouse properties and buildings which The Grange Company intends to sell and transfer to the Grange Warehouse and Storage Company. It has also filed in this proceeding a statement showing the estimated value of the properties. This statement shows a total value of \$415,823.52. According to applicant's president, the buildings appear in the statement at their depreciated value. The real estate which is to be conveyed to applicant is appraised at \$151,000 and the buildings at \$264,823.52, making a total of \$415,823.52.

It is of record that the transfer of these properties will not result in any change in the management of the warehouses. The principal end to be accomplished through the issue of the stock is the segregation of the public and nonpublic utility business of The Grange Company. It is believed that through a segregation of the properties and the transfer of the public utility properties to a public utility corporation, money can be raised more readily through the issue of warehouse receipts.

The testimony of H. E. Turner, applicant's president, shows that it is the intention of applicant to borrow \$125,000 and to use such moneys to pay indebtedness owing by The Grange Company. Negotiations for this loan have not been completed. As soon as final arrangements are made, applicant has agreed to file with the Commission a supplemental

application for permission to issue notes or bonds to represent the loan and to ask permission to execute a mortgage to secure the payment thereof.

The order in this decision will be confined to the issue of stock.

I herewith submit the following form of order:

ORDER.

The Grange Warehouse and Storage Company, having applied to the Railroad Commission for permission to issue stock and borrow money, a public hearing having been held, and the Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of stock herein authorized is reasonably required by applicant, and that this application should be granted, as herein provided;

It is hereby ordered, that the Grange Warehouse and Storage Company be and it is hereby authorized to issue not exceeding \$240,000 par value of its common capital stock.

The authority herein granted is subject to the following conditions:

1. Of the stock herein authorized to be issued, five shares (\$500 par value) shall be sold by applicant to its directors for not less than par and the proceeds used for working capital. The remainder of the stock, 2395 shares (\$239,500 per value), may be used by applicant to pay for the properties described in this application.

2. Applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will apply only to such stock as may be issued, sold or delivered on or before October 1, 1922.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-eighth day of June, 1922.

DECISION No. 10634.

IN THE MATTER OF THE APPLICATION OF SAN JOSE WAREHOUSE
COMPANY FOR AN ORDER AUTHORIZING ISSUANCE OF CAPITAL
STOCK.

Application No. 7954.

Decided June 29, 1922.

Heller, Ehrman, White and McAuliffe, by *J. B. White*, for Applicant.

BENEDICT, Commissioner.

OPINION.

San Jose Warehouse Company asks permission to issue \$5,000 (500 shares) of its capital stock at par, and to use the proceeds to pay expenses of incorporation and to provide working capital.

The record shows that applicant was incorporated on or about May 26, 1922, with an authorized capital stock of \$5,000, divided into 500 shares of the par value of \$10 each, for the purpose of conducting a public warehouse business in San Jose. It appears that all of the company's authorized capital stock will be acquired and held by members of a copartnership known as Bisceglia Bros. which is engaged in the business of canning fruits and vegetables in San Jose.

Applicant reports that each year a large quantity of canned fruits and vegetables are held by Bisceglia Bros. for future delivery and that pending the date of delivery it has been found expedient to place such goods in a public warehouse and obtain negotiable warehouse receipts in order that they might borrow money for additional working capital. It appears that there is no public warehouse near Bisceglia Bros. canning plant and for that reason it has been necessary to incur expenses of hauling and handling when storing goods. The company reports that there is a large building adjoining the cannery which is suited for a public warehouse, being situated on the main line and spur tracks of the Southern Pacific Railroad Company and Western Pacific Railroad Company close to the point of intersection of the two lines. The building is reported owned by Bisceglia Bros., who have arranged to lease it to applicant for a period of five years, commencing June 15, 1922, at an annual rental of \$3,000. A copy of the proposed lease has been filed with the Commission in this proceeding. It is not contemplated that there will be any demands for storage from the public in general, nor that any goods will be stored other than the products of Bisceglia Bros. Applicant reports that facilities are at hand, however, to take care of goods which may be offered for storage. The company, apparently, is aware of the duties and responsibilities of a public utility warehouse company and of the fact that all must be served alike, as provided in the Public Utilities Act.

I herewith submit the following form of order:

ORDER.

San Jose Warehouse Company having applied to the Railroad Commission for permission to issue stock, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant;

It is hereby ordered, that San Jose Warehouse Company be and it is hereby authorized to issue and sell at par, for cash, on or before Decem-

ber 31, 1922, \$5,000 of its capital stock, and to use the proceeds to pay organization expenses and to provide working capital.

It is hereby further ordered, that San Jose Warehouse Company be and it is hereby authorized to execute a lease with Biseeglia Bros. substantially in the same form as the lease filed in this proceeding and referred to in the foregoing opinion.

The authority herein granted is subject to the condition that San Jose Warehouse Company keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-ninth day of June, 1922.

DECISION No. 10639.

IN THE MATTER OF THE APPLICATION OF EL DORADO WATER CORPORATION, A CORPORATION, FOR AN ORDER AUTHORIZING THE EXECUTION OF A MORTGAGE AND THE ISSUE OF BONDS.

Application No. 7646.

Decided June 29, 1922.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

The Railroad Commission by Decision No. 10460 dated May 16, 1922, authorized El Dorado Water Corporation to issue and sell \$200,000 of bonds for the purpose of refunding bonds, paying the cost of constructing a new reservoir and providing the corporation with working capital.

It was applicant's original intention to use the proceeds obtained from the sale of approximately \$46,000 of bonds to pay the outstanding bonds of the El Dorado Water Company. The holders of the bonds of the El Dorado Water Company have since agreed to exchange their bonds for bonds of the El Dorado Water Corporation on a par for par basis. Applicant therefore requests the Commission to modify its former order in this proceeding so as to permit the exchange of the bonds. The Commission has considered applicant's request and believes that it should be granted; therefore.

It is hereby ordered, that the order in Decision No. 10460 dated May 16, 1922, be and it is hereby modified so as to permit El Dorado Water Corporation to issue not exceeding \$46,000 of the \$200,000 of bonds.

the issue of which is authorized by said decision, in exchange for bonds of El Dorado Water Company, on a par for par basis, as outlined in the supplemental petition filed in the above entitled matter on June 29, 1922.

It is hereby further ordered, that the order in Decision No. 10460 dated May 16, 1922, shall remain in full force and effect, except as modified by this first supplemental order.

Dated at San Francisco, California, this twenty-ninth day of June, 1922.

DECISION No. 10641.

IN THE MATTER OF THE APPLICATION OF NEEDLES GAS AND ELECTRIC COMPANY FOR AUTHORITY TO ISSUE BONDS, EXECUTE A MORTGAGE AND PAY OFF OUTSTANDING BONDS.

Application No. 5227.

Decided June 29, 1922.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission by Decision No. 10472, dated May 17, 1922, authorized Needles Gas and Electric Company, among other things, to execute a mortgage or deed of trust substantially in the same form as the mortgage or deed of trust heretofore filed in the above entitled matter on May 11, 1922; and

Whereas, Needles Gas and Electric Company reports that it desires to make certain changes in the form of the mortgage or deed of trust authorized by Decision No. 10472, and has filed with the Commission on June 20, 1922, a copy of the proposed changes, which changes relate to payments into the sinking fund and the use of moneys paid into such sinking fund; and

Whereas, the Railroad Commission has considered the proposed changes and is of the opinion that the company should be permitted to make such changes; therefore,

It is hereby ordered, that Decision No. 10472, dated May 17, 1922, be and it is hereby modified so as to permit Needles Gas and Electric Company to modify the mortgage or deed of trust which it was authorized to execute by said Decision No. 10472 and to incorporate therein the proposed changes, as filed with the Commission in this proceeding on June 20, 1922.

It is hereby further ordered, that the authority granted in Decision No. 10472, dated May 17, 1922, shall remain in full force and effect, except as modified by this second supplemental order.

Dated at San Francisco, California, this twenty-ninth day of June, 1922.

58—17236

DECISION No. 10642.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF FIRST AND REFUNDING MORTGAGE FIVE PER CENT BONDS OF THE PAR VALUE OF ONE HUNDRED NINETY-FIVE THOUSAND DOLLARS, AND TEN-YEAR SIX PER CENT NOTES OF THE PAR VALUE OF EIGHT HUNDRED THIRTY-SIX THOUSAND DOLLARS.

Application No. 7604.

Decided June 29, 1922.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

The Railroad Commission, by Decision No. 10162, dated March 7, 1922, as amended by Decision No. 10326, dated April 17, 1922, authorized Western States Gas and Electric Company to issue \$195,000 of its first and refunding mortgage 5 per cent bonds due June 1, 1941, and \$836,000 of its 6 per cent notes due February 1, 1927. The orders of the Commission permitted the sale of \$504,000 of the 6 per cent notes at 92½ per cent of face value to finance construction expenditures and to pay the cost of redeeming the underlying \$207,000 of first mortgage bonds of American River Electric Company, but provided that the remainder of the notes and the \$195,000 of bonds should not be sold, or otherwise disposed of in any manner, except as authorized by the Commission in a supplemental order or orders.

The company now asks, in its second supplemental petition filed in the above entitled matter, permission to sell \$79,500 of the bonds authorized by said Decision No. 10162 at not less than 87½ per cent of face value plus accrued interest and to use the proceeds to finance construction expenditures made prior to May 31, 1922.

Applicant shows in its Exhibit "C" attached to its second supplemental petition and reports that it has expended on or before May 31, 1922, for extensions, additions and betterments to its properties the sum of \$69,733.40 which has not been obtained from the issue and sale of stock, bonds or notes authorized by the Railroad Commission. Applicant requests permission to finance such expenditure through the sale of the \$79,000 of bonds.

The Commission has given consideration to applicant's request and believes it should be granted, as herein provided; therefore,

It is hereby ordered, that the order in Decision No. 10162, dated March 7, 1922, as amended, be and it is hereby modified so as to permit Western States Gas and Electric Company to sell \$79,500 of the first mortgage bonds authorized by said decision at not less than 87½ per cent of face value plus accrued interest for the purpose of financing

the construction expenditures made prior to May 31, 1922, as reported in the second supplemental petition filed in this proceeding and referred to in this order.

It is hereby further ordered, that the order in Decision No. 10162, dated March 7, 1922, as amended, shall remain in full force and effect, except as modified by this second supplemental order.

Dated at San Francisco, California, this twenty-ninth day of June, 1922.

DECISION NO. 10643.

IN THE MATTER OF THE APPLICATION OF OJAI POWER COMPANY,
A CORPORATION, FOR PERMISSION TO ISSUE ADDITIONAL
SECURITY.

Application No. 7275.

Decided June 29, 1922.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Ojai Power Company, having reported to the Railroad Commission, in a supplemental petition filed in the above entitled matter on June 22, 1922, that it proposes to expend approximately \$5,400 in the construction and acquisition of extensions, additions and betterments to its electric and water systems, as set forth in some detail in the supplemental petition, and having asked permission to withdraw \$5,400 of the proceeds obtained from the sale of the \$31,600 of stock authorized by Decision No. 9872, dated December 16, 1921, as amended, to finance these proposed expenditures, and the Railroad Commission being of the opinion that applicant's request should be granted, as herein provided;

It is hereby ordered, that the order in Decision No. 9872, dated December 16, 1921, as amended, be and it is hereby modified so as to permit Ojai Power Company to use not exceeding \$5,400 of the proceeds obtained from the sale of the stock authorized by the order in said decision, to finance the cost of the proposed extensions, additions and betterments described in the supplemental petition filed in this proceeding on June 22, 1922.

It is hereby further ordered, that the order in Decision No. 9872, dated December 16, 1921, as amended, shall remain in full force and effect, except as modified by this second supplemental order.

Dated at San Francisco, California, this twenty-ninth day of June, 1922.

DECISION No. 10644.

IN THE MATTER OF THE APPLICATION OF SACRAMENTO NORTHERN RAILROAD, A CORPORATION, FOR ORDER AUTHORIZING IT TO DISCONTINUE STREET CAR SERVICE BETWEEN FRONT AND M STREETS, IN THE CITY OF SACRAMENTO, AND WEST SACRAMENTO, YOLO COUNTY.

Application No. 7615.

Decided July 1, 1922.

ABANDONMENT—ELECTRIC STREET RAILROAD.—In authorizing the Sacramento Northern Railroad to discontinue street car service between Front and M streets, Sacramento, and Headquarters Station, West Sacramento, the Commission held that applicant was entitled to at least an amount which will defray the out-of-pocket operating cost required to meet the expense of conducting the service and is further entitled to a reasonable return on the investment.

RATES—COST OF OPERATION—PROHIBITIVE.—In the instant case it is held that any increase in rates which could be assessed in volume sufficient to meet cost of operation would be prohibitive.

Charles R. Detrick and Heller, Ehrman, White and McAuliffe, by Charles R. Detrick, for Applicant.

R. L. Shinn, City Attorney, for City of Sacramento, Protestant.

Charles W. Slack and Edgar T. Zook, by Edgar T. Zook, for West Sacramento Company, Protestant.

Fred Shaffer, for Yolo County Board of Trade, Protestant.

BY THE COMMISSION.

OPINION.

In the above entitled proceeding Sacramento Northern Railroad, a corporation, petitions for an order of the Railroad Commission authorizing the discontinuance of street car service now operated between Front and M streets, in the city of Sacramento, and Headquarters Station, West Sacramento, Yolo County.

A public hearing on this application was conducted by Examiner Handford at Sacramento, the matter was duly submitted and is now ready for decision.

The service, discontinuance of which is herein sought, was originally instituted on December 7, 1913, by the Northern Electric Railway Company under an arrangement whereby the West Sacramento Company was to defray the cost of operation and said West Sacramento Company was to be allowed a credit for any revenue derived from such operation. The arrangement was continued for a period of ten months during which time bills rendered were paid as accruing, but following such time, although the service was continued in accordance with the understanding, the bills therefor were not paid and an amount of \$8,200 accrued. During the receivership of the Northern Electric Railway the receiver authorized a reduction in the amount of the accrued bills by eliminating some of the items previously agreed upon thereby reducing the charge from \$8,200 to \$3,000. At the time of the purchase of

the West Side Railroad (a subsidiary corporation of the West Sacramento Company) by the Sacramento Northern Railroad a settlement was arrived at as regards the outstanding bills for deficits accruing from operation of the street car line by a deduction from the purchase price. Since November 1, 1920, the operation has been continued and monthly bills have been rendered against the West Sacramento Company, none of which have been paid, and the uncollected amount totaled \$7,685.57 as of February 1, 1922.

The service which has been rendered under the arrangement above referred to consists of a half hourly schedule commencing at 6.15 a.m. from Eighth and J streets, Sacramento, and continuing until 9.15 p.m., a total of thirty-one round trips. The total revenue derived from this service for the period from November 20 to January 22, inclusive, was \$3,352.65. The expense of operation during the same period was \$13,905.92, leaving an operating deficit of \$10,553.27. The Sacramento Northern Railroad has continued the rendering of bills on the basis previously authorized by the receiver of the Northern Electric Railway Company, which arrangement eliminated some of the items of expense originally agreed upon, and instead of rendering bills for the entire operating deficit of \$10,552.27, the bills for the period under discussion have aggregated the sum of \$7,685.57, indicating an absorption by the Sacramento Northern Railroad of operating cost items in amount \$2,867.70 for the period under discussion.

The granting of this application is opposed by residents and property owners of West Sacramento, the city of Sacramento, by its attorney, by the board of supervisors of the county of Yolo and by the West Sacramento Company.

Formal protests signed by one hundred one residents of West Sacramento were filed in this proceeding and a resolution of the board of supervisors of Yolo County as adopted on March 20, 1922.

The West Sacramento Company, through its attorney, also protests the granting of the application although admitting that his company is not in a position to pay the outstanding indebtedness which was agreed upon in consideration of the street car service being furnished.

The service which has been rendered was in compliance with an arrangement entered into in good faith between the Northern Electric Railway Company, predecessor in interest to applicant herein, and the West Sacramento Company, and was intended to furnish a street car service enabling residents of West Sacramento to have access to the city of Sacramento and any deficits in operation were to be met, under the arrangement above referred to, by the West Sacramento Company. The record in this proceeding shows that, with the exception of the settlement arrived at at the time of the purchase by the applicant of

the West Side Railroad, no payments have been made for the service furnished, and at the time of the settlement a considerable reduction in the charges then accrued was made. Since November, 1920, the operation has been continued at an average monthly deficit of approximately \$927. In addition to the direct operating cost herein referred to there are other elements to be considered which burden the applicant carrier and which can not be directly accounted for as to unnecessary expense incurred. These items consist of interference with the freight business of applicant in connection with switching movements in the vicinity of Front and M streets, Sacramento, with the movements over the M street bridge, which is used jointly by the Sacramento-San Francisco Railroad and the Woodland branch of applicant company, and with the operation of the drawbridge at the foot of M street, Sacramento. Applicant herein is entitled to at least an amount which will defray the out-of-pocket operating cost required to meet the expense of conducting the service herein sought to be abandoned and is further entitled to a reasonable return on the investment necessary to provide the particular service herein considered. It is obvious from the record in this proceeding that it is impossible to continue the operation without a very considerable monthly deficit and such deficit has been accumulating. Protestant, West Sacramento Company, offers no solution of the problem in that it has frankly stated, through its attorney, its inability to meet the present accrued bills and the expense of operation which would accumulate in future. This is not a matter in which any adjustment or increase in rates would offer a solution of the transportation problem as any rate which would be assessed in volume sufficient to meet cost of operation would be prohibitive.

After careful consideration of all the evidence in this proceeding we are of the opinion and hereby find as a fact that the further operation of the street car service of applicant herein between Front and M streets, Sacramento, and Headquarters Station in Yolo County is not justified by the public convenience and necessity in that the revenue from such operation does not in any manner meet the bare operating costs thereof nor allow any return on the investment in property used and useful in the operation of such street car service.

ORDER.

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and the Commission being fully now advised and basing its order on the finding of fact as appearing in the opinion preceding this order;

It is hereby ordered, that applicant herein be and the same hereby is authorized to suspend operation of a street car service between Front and M streets, Sacramento, and Headquarters Station in Yolo County.

such suspension of operation to be effective after one day's notice will have been given the traveling public by posting notices in its cars operated between points above mentioned.

The Commission reserves the right to make such other and further orders in this proceeding as to it may appear necessary or in the interest of the public.

Dated at San Francisco, California, this first day of July, 1922.

DECISION No. 10651.

IN THE MATTER OF THE APPLICATION OF CONSOLIDATED WATER
COMPANY OF POMONA FOR PERMISSION TO BORROW NOT TO
EXCEED THIRTY THOUSAND DOLLARS.

Application No. 7895.

Decided July 1, 1922.

G. A. Lathrop, for Applicant.

BY THE COMMISSION.

OPINION.

Consolidated Water Company of Pomona asks permission to issue an unsecured note or notes of the aggregate face value of \$30,000, payable within two years after date and bearing interest not to exceed 8 per cent per annum.

A hearing was held on this application before Examiner Westover at Los Angeles on June 23, 1922.

The testimony of *G. A. Lathrop*, secretary and general manager of Consolidated Water Company of Pomona, shows that applicant will have to expend during 1922 approximately \$30,000 for the acquisition and construction of new properties and the improvement of its service. It has already drilled a well, acquired and laid pipe involving the expenditure of \$21,035.50. In addition, it intends to deepen a well at an estimated cost of \$3,000 and is making plans for the construction of an additional reservoir which will call for an expenditure of from \$20,000 to \$25,000. Applicant did not submit any definite information relating to the construction of the additional reservoir.

The money obtained through the issue of the notes herein authorized to be issued and not used for the purposes mentioned in this decision may be expended by applicant only for such purposes as the Commission will hereafter authorize.

The payment of the note or notes which applicant intends to issue will not be secured by a mortgage upon applicant's properties. Applicant reports as of December 31, 1921, \$500,000 of stock and \$225,000 of bonds outstanding. Its notes outstanding are reported at \$21,400.

For a description of applicant's properties, reference is here made to Decision No. 10177, dated March 11, 1922, in Application No. 6409.

ORDER.

Consolidated Water Company of Pomona, having applied to the Railroad Commission for permission to issue notes, a public hearing having been held, and the Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of the notes herein authorized is reasonably required by applicant, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Consolidated Water Company of Pomona be and it is hereby authorized to issue an unsecured note or notes of the aggregate face value of not exceeding \$30,000, payable within two years after date of this order and bearing interest at not more than 8 per cent per annum.

The authority herein granted is subject to further conditions, as follows:

1. Of the proceeds authorized through the issue of the note or notes, \$24,035.50 may be expended for the following purposes:

Deepening well No. 4, approximately-----	\$4,575 00
Deepening well No. 7, approximately-----	3,000 00
To pay for pipe from Crane Company, approximately-----	4,233 00
To pay for pipe from Los Angeles Manufacturing Co., approximately----	8,250 00
To acquire and install pipe on East Fifth street, approximately-----	450 00
To acquire and install pipe on West Seventh street, approximately-----	250 00
To acquire and install pipe on North Main street, approximately-----	100 00
To acquire and install pipe on Kingsley avenue, approximately-----	1,870 00
To acquire and install pipe on Central avenue, approximately-----	390 00
To acquire and install pipe in Lincoln Park, approximately-----	250 00
To acquire and install pipe on Hamilton avenue, approximately-----	250 00
To pay for crossings-----	437 50
Total-----	<u>\$24,035 50</u>

2. The remainder of the moneys obtained through the issue of the note or notes herein authorized shall be expended only for such purposes as the Railroad Commission may hereafter authorize by supplemental order or orders.

3. The notes herein authorized to be issued shall be sold by applicant for not less than par.

4. Consolidated Water Company of Pomona shall keep such record of the issue and sale of the notes herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted will not become effective until applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee amounts to \$30.

Dated at San Francisco, California, this first day of July, 1922.

DECISION No. 10655.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE, SALE AND EXCHANGE OF BONDS.

Application No. 7715.

Decided July 5, 1922.

BY THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

The Railroad Commission by Decision No. 10294, dated April 8, 1922, authorized San Joaquin Light and Power Corporation, among other things, to issue and sell at not less than 95½ per cent of their face value, plus accrued interest, \$3,500,000 of Series "D" 6 per cent 30-year unifying and refunding mortgage bonds, subject to the condition that all proceeds obtained from the sale of such bonds be deposited with a bank or banks, or with a trust company or trust companies, until such time as the Commission by supplemental order or orders, indicates the purposes for which the proceeds may be expended.

By Decision No. 10361, dated April 25, 1922, the Commission authorized the company to expend the proceeds obtained from the sale of \$1,037,129.94 of the bonds.

The company now requests permission to use the proceeds obtained from the sale of \$490,479.49 of bonds to discharge indebtedness incurred for the purpose of paying for additions, extensions, improvements and betterments or to reimburse its treasury on account of income expended to pay for additions, extensions, improvements and betterments, and applicant having filed with the Commission a summary of its expenditures which it intends to finance through the sale of the bonds, and the Commission having considered applicant's request and being of the opinion that such request should be granted, as herein provided:

It is hereby ordered, that San Joaquin Light and Power Corporation be and it is hereby authorized to use the proceeds obtained from the sale of \$490,479.47 of the bonds authorized by the order in Decision No. 10294, dated April 8, 1922, to finance such part of the reported capital expenditures made from April 30, 1922, to June 1, 1922, both exclusive, and referred to in the supplemental petition filed in this

proceeding on June 23, 1922, as are properly chargeable to fixed capital accounts, as defined in the Uniform Classification of Accounts prescribed or adopted by the Railroad Commission.

It is hereby further ordered, that the order in Decision No. 10294, dated April 8, 1922, shall remain in full force and effect, except as modified by this third supplemental order.

Dated at San Francisco, California, this fifth day of July, 1922.

DECISION No. 10656.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE AND SELL ADDITIONAL BONDS IN THE SUM OF SIX HUNDRED THIRTY-ONE THOUSAND FIVE HUNDRED DOLLARS.

Application No. 4966.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE ADDITIONAL BONDS IN THE AMOUNT OF NINE HUNDRED TWENTY-NINE THOUSAND THREE HUNDRED EIGHTY-NINE DOLLARS TWENTY-SIX CENTS AND TO SELL OR PLEDGE THE SAME.

Application No. 6306.

Decided July 5, 1922.

BY THE COMMISSION.

FIFTH SUPPLEMENTAL ORDER.

Application No. 4966.

SIXTH SUPPLEMENTAL ORDER.

Application No. 6306.

Whereas, the Railroad Commission, by Decision No. 8399, dated November 30, 1920, as amended, in Application No. 6307, authorized Southern Counties Gas Company of California to execute a collateral trust agreement and to issue \$1,000,000 of 10-year collateral trust 8 per cent gold bonds, due December 1, 1930; and

Whereas, the Commission, by Decision No. 8398, dated November 30, 1920, as amended, in Application No. 6306, and by Decision No. 8413, dated December 2, 1920, in Application No. 4966, authorized applicant to pledge \$1,312,500 of first mortgage $5\frac{1}{2}$ per cent bonds, due May 1, 1936, to secure in part the payment of the \$1,000,000 of collateral trust bonds, subject to the condition, among others, that as the collateral trust bonds are paid, a proper proportion of the first mortgage bonds pledged as collateral should be returned to applicant and thereafter not disposed of, except as authorized by the Railroad Commission; and

Whereas, Southern Counties Gas Company of California agrees, in the collateral trust agreement, that at the option and upon the demand

of the holders of collateral trust bonds, and upon surrender of such collateral trust bonds, it will, on or before December 1, 1925, exchange so many of its first mortgage bonds as at 85 per cent of face value will equal the face amount, plus accrued interest, of the collateral trust bonds so surrendered, and after December 1, 1925, to and including December 1, 1930, so many of its first mortgage bonds as at 90 per cent of face value will equal the face amount, plus accrued interest, of the collateral trust bonds so surrendered; and

Whereas, applicant now reports that a number of the holders of collateral trust bonds have applied to the company to convert such collateral trust bonds into first mortgage bonds, in accordance with the provisions of the collateral trust agreement; and

Whereas, applicant asks permission to exchange the first mortgage bonds now pledged as collateral in exchange for and in payment of the outstanding collateral trust bonds, as provided in said collateral trust agreement;

And, the Railroad Commission, being of the opinion that applicant's request should be granted, as herein provided;

It is hereby ordered, that the order in Decision No. 8398, dated November 30, 1920, as amended, and Decision No. 8413, dated December 2, 1920, be and they are hereby modified so as to permit Southern Counties Gas Company of California to exchange first mortgage bonds authorized to be pledged by said decisions, in exchange for and in payment of the collateral trust bonds authorized to be issued and sold by orders in Application No. 6307, in accordance with the terms and provisions of the collateral trust agreement referred to in this order.

It is hereby further ordered, that the authority granted in Decision No. 8398, dated November 30, 1920, as amended, and in Decision No. 8413, dated December 2, 1920, shall remain in full force and effect, except as modified by this supplemental order.

Dated at San Francisco, California, this fifth day of July, 1922.

DECISION No. 10665.

IN THE MATTER OF THE APPLICATION OF A. J. RICHARDSON
PETITIONING THE RAILROAD COMMISSION FOR AUTHORITY TO
ADJUST PASSENGER FARES BETWEEN LOS ANGELES, SUNLAND
AND INTERMEDIATE POINTS, RESULTING IN INCREASES AND
DECREASES.

Application No. 7545.

Decided July 6, 1922.

RATES—AUTO STAGES—INCREASE—AFFIRMATIVE SHOWING NECESSARY.—In applications to increase rates it is held to be incumbent on the applicant to make an affirmative showing as to the necessity for such increase by the presentation of complete and dependable data based on accounts kept in the manner prescribed by the Commission.

N. C. Folsom, for Applicant.

O. A. Smith, for Pacific Electric Railway Company.

BY THE COMMISSION.

OPINION.

In this proceeding the Richardson Transportation Company makes application petitioning the Railroad Commission for authority to adjust passenger fares for the transportation of passengers by auto stage between Los Angeles, Glendale, Montrose, Tujunga, Sunland and intermediate points, in accordance with Exhibit A, filed with and made a part of the application.

A hearing was held before Examiner Williams in Los Angeles on March 16, 1922. An exhibit attached to and made a part of the application in this proceeding purported to show the number of tickets sold for a two weeks' period and the amount of revenue accruing therefrom under the present and proposed rates, the result being an increase of \$255.90, or an estimated increase in revenue for one year under the proposed rates of \$6,141.60. The applicant also filed an exhibit of his operating revenue and expenses for the calendar year 1921, showing a total out-of-pocket expense of \$5,489.63 without any regard to depreciation. Testimony of the owner of the applicant company showed an utter lack of familiarity with the details of the business; in fact, it lacked explanation of a number of items of expense set up in the exhibit offered at the hearing.

The Commission directed its financial department to make a check of the books of the applicant A. J. Richardson Transportation Company, with the following result:

Applicant's Exhibit B shows total passenger receipts for 1921 as \$27,061.26, whereas the total passenger revenue, not including war tax, was actually \$34,108.80, a difference of \$7,047.54 more than the applicant reported. A check of the books also showed that the operating expenses for 1921 were \$728.61 less than set forth by the applicant in his exhibit, resulting in a net gain for the year of \$1,169.04, instead of a loss of \$6,606, as reported by the applicant.

Applicants for increases in rates for the transportation of persons or property by motor vehicle must meet the same requirements as any other public utility.

The petitioner in this proceeding asked for authority to establish practically an entirely new schedule of rates, and in such instances it is incumbent upon the applicant to justify its application and to make an affirmative showing as to the necessity for such adjustment by the presentation of complete and dependable data based on accounts kept in the manner prescribed by the Commission. In this proceeding no such convincing proof has been made; in fact, the evidence offered is

not sufficient for the Commission to intelligently pass upon the reasonableness of the present or proposed rates.

The evidence, however, did indicate that since the first of the year this applicant has employed a bookkeeper to write up his books according to our uniform classification of accounts for automotive transportation companies, and which will show proper voucher for all disbursements from January 1, 1922.

In view of the discrepancies between the figures shown in the exhibits accompanying the application, those presented at the hearing and the figures checked by the Commission's auditors, and in further view of the fact that the evidence is not sufficient for the Commission to reach a conclusion, we believe the application in this proceeding should be denied without prejudice to a further hearing, provided the applicant comes to the Commission with dependable data for a representative period during which his accounts have been kept in accordance with the requirements of the Commission.

ORDER.

For the reasons stated in the opinion above, we believe this application should be and the same is hereby denied.

Dated at San Francisco, California, this sixth day of July, 1922.

DECISION No. 10666.

PAUL BINDER, WALTER MITTNACHT AND JOHN B. BUNYARD
vs.

PORT COSTA WATER COMPANY, A CORPORATION.

Case No. 1655.

Decided July 6, 1922.

J. F. Ormsby, for Complainants.

E. H. Shibley, for Defendants.

BY THE COMMISSION.

OPINION.

In this case the complainants asked that the defendant water company be required to extend its service to their respective residences located in a real estate tract known as "The First Addition to the Bay Addition to the Town of Crockett." An answer was filed and the matter heard before Examiner Gordon at Crockett on June 22, 1922, and is now submitted for decision.

The town of Crockett is located mainly on the hillsides adjoining Carquinez Straits. The defendant water company, in serving this community, was obliged, in order to maintain adequate pressure for

service to consumers on the higher levels, to install a booster pump on its main delivery pipe line which pumped water into several regulating tanks located on high elevations. There were thus created a number of zones of delivery in the Crockett area with the service in each zone limited by the capacity of the regulating tank and distribution mains serving that particular zone. The record shows that the defendant company provided water service in the subdivisions in which the complainants' houses are located, without protest, until the building of residences was extended to lots on the higher elevations, and it was found that the existing plant equipment was inadequate to render proper service without some limitation as to the elevation to which additional extensions would be made. The company, therefore, in April, 1920, published a notice in the local newspaper to the effect that it would not undertake to make extensions of its mains nor to furnish water service with existing pumping facilities to any point of service located above a contour line 170 feet above mean low tide.

In a prior proceeding before this Commission, upon a complaint similar to that now under consideration (*William H. Neff vs. Port Costa Water Company*, Case No. 1418, Decision No. 8058), the Commission approved this limitation upon the extension of service as a reasonable regulation in the interest of good service to the public dependent upon this system.

The evidence shows that the residences of complainants are on adjoining lots located in the above mentioned subdivision, on the westerly or uphill side of Virginia street. The 170-foot contour line crosses the lower end of one of the lots, crosses the corner of the second lot, and crosses Virginia street directly below the third lot. At the present time, these complainants are receiving their domestic supply through a small pipe, which they themselves have installed, connecting with the service pipes of another of the defendant's consumers located across the street and below the 170-foot contour line. The defendant has not objected to this arrangement, and is willing that it be continued provided the company is not held responsible for any resultant poor service and water shortage due to lack of pressure sufficient to carry water to the point of use on complainants' lots above the 170-foot level. It was further admitted at the time of the hearing that as a practical matter the same quality of service could be furnished to complainants by individual connections with the existing mains of the company in Virginia street in close proximity to complainants' lots. Complainants desire this direct connection with the company's mains and assert their willingness to assume the risk of the service continuing as it has been in the past.

No facts have been presented which would lead the Commission to alter its conclusion as set forth in the order of September 2, 1920, Decision No. 8058, above referred to, to the effect that the limitation of extensions to the 170-foot level is a reasonable regulation of defendant's service. No requirement, therefore, will be made at this time that the point of service from defendant's mains be extended beyond this limit. However, in view of the fact that complainants are already receiving water from the defendant's system, and are willing to continue to receive it by connection at a point within the 170-foot level and themselves piping the water to a higher elevation, the Commission believes that the company should permit a direct connection for this purpose.

ORDER.

A complaint having been filed herein asking that the defendant, Port Costa Water Company, a public utility, be required to extend its service to the residences of complainants, an answer having been filed, a public hearing held, and the matter submitted;

It is hereby ordered, that the Port Costa Water Company extend its two-inch distribution main from the termination thereof in Virginia street, opposite lot 3, block 10 of the First Addition to the Bay Addition to the Town of Crockett, northwesterly along Virginia street to the point of intersection of the westerly boundary of Virginia street with a contour line 170 feet above mean low tide. On its two-inch main thus extended defendant shall install, at points opposite or nearest the premises of plaintiffs, a service meter and connection for the service of water to each of said plaintiffs, and thereafter supply water at the point of said connection for the use of said plaintiffs for domestic purposes. The three plaintiffs may, at their own expense, extend service pipes from said points of connection for the service of water for domestic purposes on their respective premises as described in the complaint herein.

The foregoing order shall not be deemed as a requirement that the defendant water company shall extend its service to a point above the 170 feet above sea level contour, nor as a requirement for defendant to maintain an adequate water pressure and supply water at any point above said elevation.

Dated at San Francisco, California, this sixth day of July, 1922.

DECISION No. 10668.

IN THE MATTER OF THE APPLICATION OF N. A. WEBB AND F. S. HENDRICKS, OWNERS OF PASADENA-OCEAN PARK STAGE LINE, FOR AN ORDER GRANTING PERMISSION TO ESTABLISH CERTAIN INCREASES IN FARES.

Application No. 7499.

Decided July 6, 1922.

RATES—AUTO STAGES—APPLICATION TO INCREASE—CHARACTER OF SHOWING NECESSARY.—It is held that applicants for increases in rates for transportation of persons or property by motor vehicles must meet the same requirements as any other public utility. In the instant case it is held applicants were unable to support their application with dependable or complete data kept in the manner prescribed by the Commission, nor was there convincing or definite evidence that the business is efficiently managed.

L. A. Monroe, for Applicant.

O. A. Smith, for Pacific Electric Railway Company.

BY THE COMMISSION.

OPINION.

In this proceeding Pasadena-Ocean Park Stage Line, Webb and Hendricks, owners, through its agent, Lewis A. Monroe, makes application to the Railroad Commission petitioning for authority to adjust passenger fares by auto stage between Pasadena, Ocean Park and intermediate points, in accordance with schedule set forth in the application in the above entitled proceeding.

A hearing was held before Examiner Williams at Los Angeles on March 16, 1922, and the matter is now ready for decision.

The applicant sets up in Exhibit A, attached to and made a part of the application, what purports to be operating revenue and expenses, but inasmuch as the applicant took over the line the middle of August, 1921, and the exhibit shows revenues and expenses only for September to December, 1921, inclusive, we believe that the period taken is not representative, for the reason that for sixteen days in August the receipts of the applicants were \$2,945, while for twenty-eight days of February, 1922, the receipts were \$3,492 50 according to a check made by the Commission's auditors. It was testified at the hearing that Mr. Hamilton, the assistant manager, had been ill for two months and that the books had not been written up since January 1, 1922. Shortly after the hearing in this proceeding the Commission's auditors made a check of the books of the applicants and found their records incomplete.

The applicants in this proceeding also own and operate another automotive transportation line known as the Mount Wilson and Arroyo Seco lines. Proper attention has not been paid to the accounting end of the business. They have not kept all of the vouchers for the purchase of goods for cash and, in some instances, not even requiring a

bill for the same. As an example of the incompleteness of the records, there was no segregation of drivers' and mechanics' wages during September and October and the amount shown in applicants' Exhibit A was estimated. As another instance, the auditors' report shows that the repair work during September and October, 1921, was done in a shop rented by the former owner of the line, which was given up on November 1, the tools moved to the shop of the Mount Wilson line, where the repair work is now being done for the Pasadena-Ocean Park line. The auditors also report that Mr. Webb, one of the owners, purchases most of the supplies and parts; sometimes pays cash and at other times purchases them from his Mount Wilson line and these are not always taken into the accounts properly.

Applicants for increases in rates for transportation of persons or property by motor vehicles must meet the same requirements as any other public utility. In this proceeding the applicants petitioned authority to make various changes in the rate schedules, resulting in increases in charges to the public, but was unable to support this application with dependable or complete data based on accounts kept in the manner prescribed by the Commission, nor was there convincing or definite evidence that the business is efficiently managed. There was insufficient evidence upon which the Commission could pass intelligently as to whether the present or proposed rates are or are not reasonable.

In view of there being insufficient evidence upon which the Commission can establish a conclusion, we believe the application in this proceeding should be denied without prejudice to a future application at a time when the applicants can come to the Commission with dependable data in accordance with the Commission's requirements.

ORDER.

The Pasadena-Ocean Park Stage Line, Webb and Hendricks, owners, through its agent, Lewis A. Monroe, having made application to this Commission for authority to adjust passenger fares by auto stage between Pasadena, Ocean Park and intermediate points;

It is hereby ordered, that the application in this proceeding be and the same is hereby denied without prejudice.

Dated at San Francisco, California, this sixth day of July, 1922.

DECISION No. 10669.

IN THE MATTER OF THE APPLICATION OF CENTRAL COUNTIES GAS COMPANY, FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF SIXTY THOUSAND SHARES OF ITS COMMON CAPITAL STOCK OF THE PAR VALUE OF ONE DOLLAR PER SHARE.

Application No. 7953. .

Decided July 6, 1922.

John E. Jardine and F. W. Hunter, for Applicant.

BY THE COMMISSION.

OPINION.

Central Counties Gas Company asks permission to issue and sell at not less than 90 per cent of its par value \$60,000 of its common capital stock, and to use the proceeds to pay indebtedness and finance the acquisition and construction of new properties.

A hearing was had on this application before Examiner Westover on June 23 at Los Angeles.

Central Counties Gas Company as of April 30, 1922, reports \$103,505 of common stock; \$300,000 of first mortgage 6 per cent bonds due January 1, 1939, and \$150,000 of 7 per cent serial debentures outstanding and in the hands of the public. In addition, the company reports \$10,000 of notes and \$19,784.99 of accounts payable. Applicant intends to use the proceeds from the sale of the \$60,000 of common stock for the following purposes:

Purchase of lot and office building 60x106 feet on South Locust street, Visalia	\$10,750 00
Purchase and installation of approximately 20,000 feet of new 2-inch distribution main	7,000 00
Purchase and installation of 500 new services, meters and regulators....	12,250 00
Refunding 90 day 7 per cent note dated May 11, 1922, for \$10,000, in favor of Wm. R. Staats & Co.....	10,000 00
To reimburse applicant's treasury.....	14,000 00
Total.....	\$54,000 00

It is of record that on April 22, 1922, F. W. Hunter purchased a lot on South Locust street for \$10,750 and that this lot is being transferred by him to applicant at cost. Following the purchase of the lot, he borrowed \$18,000 from the Los Angeles Trust and Savings Bank for a period of three years with interest at the rate of 6½ per cent per annum for the purpose of constructing an office building on the lot, and executed a first mortgage to secure the payment of the loan. The building is now in process of construction. Floor space has been leased for a term of seven years to J. C. Penny and Company at an annual rental of \$2,460, payable in monthly installments. The lot and building will be transferred to applicant subject to the mortgage and lease. As a result of this arrangement, applicant will get the

use of a new office without any substantial expense, the annual rental from the building being in excess of the interest on the \$18,000 mortgage and dividends at the rate of 8 per cent on the stock sold for the purpose of buying the lot. It appears that the property was acquired by F. W. Hunter so that the loan from the Los Angeles Trust and Savings Bank might be secured by a first lien on the property.

While applicant asks permission to reimburse its treasury to the extent of \$14,000, the testimony shows only \$7,000 of this represents earnings invested in property and that the remainder is represented by accounts payable.

The order herein will permit the issue and sale of stock for the purpose of liquidating the accounts payable and reimbursing applicant's treasury in the amount of \$7,000.

ORDER.

Central Counties Gas Company, having applied to the Railroad Commission for permission to issue and sell \$60,000 of common stock, a public hearing having been held, and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant, and that this application should be granted as herein provided;

It is hereby ordered, that Central Counties Gas Company be and it is hereby authorized to issue and sell for cash at not less than 90 per cent of its par value \$60,000 par value of common capital stock.

The authority herein granted is subject to further conditions as follows:

1. The proceeds realized from the sale of the stock herein authorized to be issued and sold shall be used by applicant for the following purposes and none other:

For purchase of lot and office building at South Locust street, Visalia	\$10,750 00
For purchase and installation of approximately 20,000 feet of new 2-inch distribution main, approximately	7,000 00
For purchase and installation of 500 new services, meters and regulators, approximately	12,250 00
For refunding 90 day 7 per cent note dated May 11, 1922, and payable to Wm. R. Staats and Company	10,000 00
To liquidate accounts payable representing money expended for additions and betterments, approximately	7,000 00
To reimburse its treasury on account of earnings expended for additions and betterments, approximately	7,000 00
Total	\$54,000 00

2. Central Counties Gas Company shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's

General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will apply only to such stock as may be issued, sold or delivered on or before December 31, 1922.

Dated at San Francisco, California, this sixth day of July, 1922.

DECISION No. 10671.

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF CONTRA COSTA FOR PERMISSION TO CONSTRUCT A PUBLIC ROAD AT GRADE ACROSS THE TRACKS OF SOUTHERN PACIFIC COMPANY EAST OF AVON STATION IN THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA.

Application No. 6702.

Decided July 7, 1922.

A. B. Tinning, for Applicant.
Elmer Westlake, for Southern Pacific Company.
Daniel W. Hone, for Associated Oil Company.

BY THE COMMISSION.

OPINION.

In this application the county of Contra Costa asks permission to construct a public road across the tracks of Southern Pacific Company at the location which is now occupied by a private road approximately 500 feet east of Avon station.

A public hearing was held at Martinez on January 23, 1922, before Examiner Satterwhite.

The purpose of this application is to provide an outlet from Concord-Avon county road to the paved county highway which parallels the Southern Pacific on its northerly side. The public is now using a private crossing at this location.

There is no dispute as to the fact that public convenience and necessity require that a public crossing be installed in this general vicinity in order to connect Concord-Avon road with the paved highway.

At the hearing the Southern Pacific Company contended that a crossing in the location applied for would be unnecessarily hazardous and expressed its preference for a location some 350 feet west of the location proposed by the county. In order to connect the Concord-Avon county road with the crossing at the location proposed by the Southern Pacific, the Associated Oil Company offered to give the county a 30-foot strip along its property. The county, however, pointed out that under the law it would be impossible for it to accept a right of way of anything less than 40 feet in width for county road purposes and inasmuch as the Associated Oil Company could not increase the

width of the strip offered without seriously interfering with their plans for development of its Avon refineries located at this point, it appears that in order to effect the suggested change of location it would be necessary for the Southern Pacific Company to provide the additional 10-foot strip for the necessary 40-foot right of way. At the hearing Southern Pacific Company announced it was not in a position to state its attitude as to this concession and this feature was left for further negotiation.

It was conceded by all concerned that the alternate location would be somewhat less hazardous for a grade crossing than the location originally proposed by the county. The factors which most immediately affect the hazard at either location are that this crossing, in the location applied for, is between the stock corral and the freight house of the Southern Pacific, both of which structures materially interfere with the view in approaching the crossing from the south. The crossing in this location is over the main track, the San Ramon branch track and three sidings, with a total distance between the outside tracks of nearly 100 feet. At the location proposed by the Southern Pacific the view in an easterly direction would be somewhat obstructed by the freight house and corral, but otherwise the view would be relatively clear and the crossing would be over only the main track, the San Ramon branch track and two sidings with a total distance between outside tracks of about 40 feet.

The Southern Pacific expressed its acquiescence to the crossing in the newly proposed location upon the condition that the county pay the entire cost of installing the crossing and any necessary protection thereof, and to this arrangement the county declined to agree, contending that the railroad should bear at least one-half the cost of the installation.

Subsequent to the hearing the Southern Pacific was permitted to state its position regarding its giving the necessary 10-foot strip to make it possible to place the crossing in the location proposed by it. Accordingly, the Southern Pacific consented to give the county an easement for the 10-foot strip upon the condition that the county of Contra Costa assume all the expense of constructing the roadway, paving and planking the crossing and installing an automatic flagman, but the county declined to accept this offer under these conditions.

It is to be regretted that the parties at interest in this proceeding could not be brought together on the basis of a solution which would seem to be the best for all concerned, but since this seems, in this case, to be impossible, it becomes the duty of the Commission to pass upon the merits of the application in its original form.

It is to be noted that the circumstances surrounding this crossing are in some respects unusual and the following facts stand out:

First: a private crossing now exists at this location, the purpose of installation of which seems to have been to serve two private interests, namely, to give the Associated Oil Company access from its Avon refineries to the county highway north of the railroad, and to give the Southern Pacific Company access from its freight house and corral to the county highway north of the track. Second: that although installed as a private crossing the Southern Pacific has not effectively maintained gates and has allowed the public to use this crossing, and that under the present circumstances this use of the crossing by the public without adequate protection constitutes a serious public hazard. Third: public necessity and convenience seem to require that a public crossing be provided at or near this location. Under these circumstances there appears to be no alternative but that a public crossing should be ordered in this vicinity and it remains for the Commission to determine the manner of crossing, the point of crossing, form of protection necessary and the manner in which the cost should be apportioned.

Inasmuch as the territory is relatively flat and only slightly above high tide, and since the road to be connected with parallels and is adjacent to the railroad on its northerly side, a separation of grades at this location is not feasible nor practicable at this time.

Although a location of a grade crossing has been pointed out which would be somewhat safer than the location of the present private crossing, it appears, as a practical matter, that suitable right of way to make use of the safer location could not be made available under terms which the county is willing to accept and under these circumstances if this application is denied, the public will continue to use the existing private crossing with its present lack of adequate protection, or the public will be deprived of its necessary outlet to the paved county highway north of the track. It further appears that there is merit in this particular instance to the county's contention that the railroad should share in the cost of installing this crossing because it is clear that this crossing serves the Southern Pacific itself, as well as the Associated Oil Company, and the general public. It is also a fact that the principal hazard of this crossing is due to obstructions to view occasioned by the facilities of the railroad, or by cars on the tracks adjacent to the crossing.

Under these circumstances it appears proper that this application be granted and proper protection be afforded at the location of the existing crossing and that the expense of the installation be shared between the county and the railroad.

ORDER.

The county of Contra Costa having applied for permission to construct a public road at grade across the tracks of Southern Pacific Company east of Avon station, a public hearing having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision;

It is hereby found as a fact that public convenience and necessity require the establishment of a public crossing at grade at the point hereinafter specified; therefore

It is hereby ordered, that permission be and it is hereby granted the Board of Supervisors of the county of Contra Costa, State of California, to construct a public road at grade across the tracks of Southern Pacific Company at the location described as follows:

Beginning at the intersection of the northerly line of the county road (running between Concord and Avon) with the southeasterly line of the Southern Pacific Railroad Company's right of way at Avon station, county of Contra Costa, State of California, said point also being southerly 150 feet measured at right angles from the existing center line of said railroad running between Port Costa and Tracy at engineer's station 2334 plus 82.2, thence north $19^{\circ} 35'$ west a distance of 200 feet more or less to the northwesterly right of way line of said railroad right of way, thence south $70^{\circ} 25'$ west along said northwesterly right of way line, a distance of 40 feet, thence south $19^{\circ} 35'$ east, a distance of 200 feet more or less to a point in the southeasterly right of way line of said railroad right of way, thence north $70^{\circ} 25'$ east along said southeasterly right of way line, a distance of 40 feet to the point of beginning.

all of the above as shown on the map attached to the application, said crossing to be constructed subject to the following conditions:

(1) The entire expense of constructing and maintaining that portion of the crossing up to lines two feet outside of the outside rails of the tracks shall be borne by the applicant. The cost of constructing that portion of the crossing between lines two (2) feet outside of the outside rails of the tracks shall be equally divided between the applicant and Southern Pacific Company. The maintenance of that portion of the crossing between the said lines two (2) feet outside of the outside rails shall be borne by Southern Pacific Company.

(2) The crossing shall be constructed of a width not less than twenty-four (24) feet and at an angle of ninety (90) degrees to the railroad with grades of approach not greater than two (2) per cent; shall be protected by a suitable crossing sign and shall in every way be made safe for the passage thereon of vehicles and other road traffic.

(3) An automatic flagman shall be installed for the protection of said crossing. Said automatic flagman shall be of a type and installed in accordance with plans or data approved by the Commission. The cost of installing said automatic flagman shall be borne one-half by the applicant and one-half by Southern Pacific Company, and the cost of its maintenance thereafter shall be borne by Southern Pacific Company.

(4) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing.

(5) The authorization herein granted for the installation of said crossing shall lapse and become void one year from the date of this order unless further time is granted by subsequent order.

(6) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

Dated at San Francisco, California, this seventh day of July, 1922.

DECISION No. 10672.

IN THE MATTER OF THE APPLICATION OF R. H. CLARKE AND F. O. GARRETT, COPARTNERS, DOING BUSINESS UNDER THE FICTITIOUS NAME OF "OAKLAND-SAN RAFAEL EXPRESS COMPANY," FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AN AUTO TRUCK LINE FOR THE TRANSPORTATION OF PROPERTY, FOR COMPENSATION, BETWEEN OAKLAND AND SAN RAFAEL, CALIFORNIA, AND BETWEEN OAKLAND AND IGNACIO, CALIFORNIA, VIA POINT RICHMOND AND RICHMOND-SAN RAFAEL FERRY.

Application No. 7607.

Decided July 7, 1922.

CERTIFICATE—MOTOR CARRIERS—THROUGH ROUTE AND JOINT RATES.—It is held that section 22 of the Public Utilities Act in reference to through routes and joint rates does not apply to truck lines, there being no similar provision in the Automotive Transportation Act. The carriers in the present case are directed not to establish a through route or joint rates without previous authority of the Commission.

A. B. Roehl, for Applicants.

R. W. Palmer, for Northwestern Pacific Railroad Company, Protestant.

D. Geary of Geary and Geary, for Petaluma and Santa Rosa Railroad Company, Protestant.

Edward Stern, for American Railway Express Company, Protestant.

E. W. Hollingsworth and G. A. Bahler, for Traffic Bureau of Oakland Chamber of Commerce, Protestant.

L. N. Bradshaw, for Southern Pacific Company.

E. H. Maggard, for Petaluma and Santa Rosa Railroad Company.

W. R. Rutherford, for City of Santa Rosa.

James Stafford, Walter H. Nagle and E. A. Jackson, for Chamber of Commerce of Santa Rosa.

Frank J. Burk, for City of Petaluma.

S. S. Knight, for the Chamber of Commerce of Petaluma and various other organizations.

BY THE COMMISSION.

OPINION.

Public hearings were held by Examiner Westover at Oakland and San Rafael upon the above entitled application to operate an auto-

motive truck service as a common carrier of freight between Oakland and San Rafael, and of milk in cans between Ignacio and Oakland, all via the Richmond-San Rafael ferry. By amended application, filed by leave during the hearings, applicants seek authority to include Berkeley and Richmond in the milk service, and to transport freight in general between San Rafael and San Quentin on the one hand, and Oakland, Berkeley and Richmond on the other hand, but do not desire to transport freight locally between points west of the bay or locally between points east of the bay.

It appears that there are no common carriers operating at present over the route in question. However, the terminals of Ignacio, San Rafael and Oakland are served by two routes—one, the Northwestern Pacific Railroad and ferry boats between Sausalito and San Francisco, and Southern Pacific ferry boats between San Francisco and Oakland; and the other route, by the two railroads via Schellville and Vallejo Junction and the Vallejo ferry. American Railway Express Company operates over these rail and boat lines.

Concerning the proposed milk service, it appears from the testimony that milk does not move to Oakland via either of the above routes, and that all of the milk now produced in Marin County is marketed or distributed in San Francisco, except that a group of three dairies near Ignacio, which applicants propose to serve, since the first of the year have been shipping 68 to 78 cans of milk per day to the South Berkeley Creamery, which latter operates a truck for the purpose, charging a rate of 35 cents per 10-gallon can, which is the rate proposed by applicants.

Applicants propose to pick up the milk at points on the highway near the dairies, shortly after the afternoon milking, connect with the ferry boat leaving San Quentin at 6.15, and deliver to the creamery before 8 p.m. The milk is precooled at the dairies before shipping, and is pasteurized after arrival and before local distribution of the milk the following morning. It sufficiently appears from expert testimony that milk thus handled reaches the consumer in more healthful condition than if it were handled a number of times in being transferred from trucks, platforms, trains and wheeled trucks, with more opportunity for the milk to stand in the sun while awaiting the arrival of trains. The proposed service also includes a pick-up and delivery, which is not furnished by the railroad or express company, which latter charges rates of 24 and 25 cents per 10-gallon can between stations.

Concerning the transportation of general freight between San Rafael and San Quentin on the one hand, and east-bay points on the other, it appears that there is at present no public carrier operating directly between these points, but that shipments from San Rafael to Richmond,

for illustration, a distance of approximately 12 miles via the Richmond-San Rafael ferry, must travel a distance of approximately 32 miles when routed via Sausalito and San Francisco, or 55.4 miles when routed via Schellville and Vallejo Junction.

It appears from the testimony that there is considerable business dealing between the communities proposed to be served, particularly Oakland and San Rafael, and considerable freight moved between these points, and that in some instances Oakland business houses have ceased trying to sell and distribute goods in and about San Rafael, and that one house has ceased sending its traveling representative to San Rafael because of delay in transporting shipments between these points as compared with shipments originating with San Francisco wholesale houses.

Applicants further showed that they expected considerable interchange of freight at San Rafael with the San Rafael Freight and Transfer Company, a truck line in which Captain Clarke (one of the present applicants) is joint owner with A. H. Marx. This freight moves to and from points north of San Rafael, but principally to and from Petaluma and Santa Rosa. This testimony was admitted over the objection of protestants, Petaluma and Santa Rosa Railway Company and Northwestern Pacific Railroad Company, who objected that it was not within the issue presented by the application, as it involved territory beyond that proposed to be served and would eventually result in the two lines seeking to establish a through service and joint rates. The testimony was admitted solely as bearing on the amount of freight to be moved between San Rafael and east-bay points.

At the urgent request of the protestants an adjourned hearing was held at San Rafael to permit the presentation of testimony relating to the territory between San Rafael and Santa Rosa, at which hearing the Southern Pacific Company entered an appearance as protestant because of its Sonoma Valley line serving Santa Rosa and east-bay points via Vallejo Junction. It developed during the hearing that such through route and joint rates are contemplated by the respective truck lines, they considering that they are obliged to furnish such service under section 22 of the Public Utilities Act, effective March 23, 1912, although there is no similar provision in the act providing for the supervision and regulation of "automotive transportation companies," chapter 213, Statutes of 1917, as amended by chapter 280, Statutes of 1919.

Under section 33 of the Public Utilities Act, the Commission has power to order the establishment of a through route and a joint rate

after hearing, where it finds that the rates in force over two or more common carriers between any two points are unjust, unreasonable or excessive, and that the public convenience and necessity demand the establishment of such through route and joint rate. No such showing was made herein, and the question is not raised by the application. In this instance no such action by the interested parties should be attempted without previous authority of the Commission.

At the adjourned hearing, the Petaluma and Santa Rosa Railroad Company presented considerable testimony to the general effect that its service by rail between Petaluma and Santa Rosa, and by water between Petaluma and San Francisco and Oakland, is entirely satisfactory and that the communities involved consider that a competing line would be detrimental to the interests of shippers through reducing the ability of the present carrier to serve their needs. It also showed that it serves Oakland in connection with boats and barges of the Bay Cities Transportation Company, and that by this means it affords an over night service between Oakland and Petaluma—a fact apparently not generally known to Oakland shippers wishing to send goods to Petaluma, Santa Rosa, and intermediate points on this carrier's lines. Under present schedules, shipments may leave Oakland at 12 noon, arrive at Petaluma at 11 p.m., and at Santa Rosa at 7 a.m. the following morning; or leave Santa Rosa at 5 p.m., Petaluma at 6 p.m., and arrive at Oakland at 1 p.m. the following day.

The testimony presented by applicants justifies the granting of the application, with the understanding that the service proposed by applicants is to be strictly limited to points mentioned in the application.

A further hearing in the matter was held upon the initiative of the Commission because of information which it received to the effect that applicants had been operating regularly all of the year 1922 without previous authority. It developed at the hearing that although a truck driver was employed by applicants to operate their truck in the regular hauling of milk between the dairies near Ignacio and the South Berkeley Creamery, and the driver's wages were paid by them as well as bills for oil, gas, ferry tolls, and other operating costs, this was done at the special instance and request of the manager of the South Berkeley Creamery, who had individually hired applicant's truck for a period of four months, beginning January 1, 1922, at a rental of \$7 per day; and was done as a matter of convenience in accounting, the applicants being reimbursed for all such outlays.

ORDER.

A public hearing having been held upon the above entitled application, the matter being submitted and ready for decision;

The Railroad Commission hereby certifies that public convenience and necessity require the operation by R. H. Clarke and F. O. Garrett, copartners, doing business under the fictitious name of "Oakland-San Rafael Express Company," of an automotive truck line for the common carriage of milk in cans between Ignacio and dairies in the vicinity of Ignacio on the one hand, and Oakland, Berkeley, and Richmond on the other hand, via San Rafael, Richmond-San Rafael Ferry, and Point Richmond; and for the common carriage of freight, in general, between San Rafael and San Quentin on the one hand, and Richmond, Berkeley, and Oakland on the other hand, via Richmond-San Rafael Ferry and Point Richmond.

This certificate is granted subject to the following conditions:

1. Nothing herein contained shall be construed as authorizing the transportation of milk or other freight between points other than those above mentioned, by the establishment of joint rates and through routes or otherwise.

2. The operative rights and privileges hereby established may not be transferred, leased, sold nor assigned, nor the said service abandoned unless the written consent of the Railroad Commission thereto has first been procured.

3. No vehicle may be operated in said service unless said vehicle is owned by the applicants herein or is leased by said applicants under a contract or agreement satisfactory to the Railroad Commission.

4. *It is hereby ordered*, that applicants shall, within fifteen days from the date hereof, file with the Railroad Commission schedules and tariffs covering said proposed service, which shall be in addition to proposed schedules and tariffs accompanying the application; shall show each point proposed to be served and quote rates to and from each such point; and shall set forth the date upon which the operation of the line hereby authorized will commence, which date shall be within thirty days from date hereof, unless time to begin operation is extended by formal supplemental order herein.

5. The authority herein contained shall not become effective until and unless the above mentioned schedules and tariffs are filed within the time herein limited.

Dated at San Francisco, California, this seventh day of July, 1922.

DECISION No. 10674.

IN THE MATTER OF THE APPLICATION OF BAKERSFIELD WATER WORKS, A CORPORATION, FOR AUTHORITY TO ISSUE AND SELL THIRTY-FIVE THOUSAND DOLLARS PAR VALUE OF ITS FIRST MORTGAGE SIX PER CENT SERIAL GOLD BONDS.

Application No. 7977.

Decided July 7, 1922.

Chickering and Gregory, by Evan Williams, for Applicant.

BENEDICT, Commissioner.

OPINION.

Bakersfield Water Works asks permission to issue and sell at not less than 91 per cent of their face value \$35,000 of 6 per cent serial first mortgage bonds maturing at the rate of \$5,000 per annum from March 1, 1936 to 1942, both inclusive. The company further asks permission to use the proceeds obtained from the sale of \$25,000 of bonds to reimburse its treasury on account of moneys expended for additions and betterments. Though the company asks permission to sell bonds to reimburse its treasury, it is of record that none of the proceeds will be withdrawn from applicant's business for the purpose of paying dividends. The proceeds from the \$25,000 of bonds will be used to pay indebtedness incurred for capital purposes and to acquire and install meters, pipes, pumps and other improvements.

The proceeds from the sale of \$10,000 of the bonds will be deposited by applicant in a bank or banks and expended only for such purposes as the Commission may hereafter authorize.

Applicant reports \$60,500 of stock and \$80,000 of 6 per cent serial first mortgage bonds outstanding. It owes the First Bank of Kern the sum of \$11,550, such debt being represented by a demand note. This note will be paid with proceeds obtained from the sale of the bonds.

The testimony shows that applicant from January 1, 1921, to April 30, 1922, expended for additions and betterments the sum of \$33,883.96. This amount of money was expended for the following purposes:

Pumping station land	\$1,822 23
Pumping station buildings	126 03
Pumping equipment	3,156 40
Distribution mains	7,332 20
Tanks	28 65
Distribution reservoir	8,776 23
Hydrants	64 10
Services	2,971 45
Meters	8,834 38
General office equipment	537 31
General equipment	234 98
Total	\$33,883 96

The \$25,000 of bonds which applicant now asks permission to issue and sell for the purpose of reimbursing its treasury represents approximately 75 per cent of the reported expenditures. The record shows that the expenditures incurred by applicant for capital purposes have been necessary and that through such expenditures, applicant has been enabled to give better service and install meters on part of its system.

I herewith submit the following form of order:

ORDER.

Bakersfield Water Works having applied to the Railroad Commission for permission to issue \$35,000 face value of bonds, a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Bakersfield Water Works be and it is hereby authorized to issue and sell on or before December 31, 1922, at not less than 91 per cent of their face value \$35,000 of 6 per cent serial first mortgage bonds.

The authority herein granted is subject to further conditions as follows:

1. The proceeds obtained from the sale of \$25,000 of bonds may be used by applicant for the purpose of paying indebtedness representing moneys expended for additions and betterments and reimbursing its treasury on account of earnings used to pay for additions and betterments.

2. The proceeds obtained from the sale of \$10,000 of bonds herein authorized to be issued shall be deposited in a bank or banks and expended only for such purposes as the Railroad Commission may hereafter authorize.

3. Bakersfield Water Works shall keep such record of the issue and sale of its bonds and the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted will not become effective until applicant has paid the fee required by section 57 of the Public Utilities Act, which fee amounts to \$35.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventh day of July, 1922.

DECISION No. 10677.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUANCE OF PREFERRED CAPITAL STOCK OF THE PAR VALUE OF TWENTY-FIVE MILLION DOLLARS.

Application No. 7657.

IN THE MATTER OF THE APPLICATION OF THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO ISSUE, SELL AND DELIVER TWENTY-FIVE MILLION DOLLARS PAR VALUE OF ITS BONDS.

Application No. 7792.

Decided July 7, 1922.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER, APPLICATION NO. 7657.**THIRD SUPPLEMENTAL ORDER, APPLICATION NO. 7792.**

The Railroad Commission by Decision No. 10334, dated April 20, 1922, authorized The Pacific Telephone and Telegraph Company to issue and sell, at not less than \$85 per share, 250,000 shares (\$25,000,000) of its 6 per cent cumulative preferred stock and to apply the proceeds to the payment of indebtedness due the American Telephone and Telegraph Company, the Crocker National Bank of San Francisco and other obligations, and through the payment of such indebtedness, finance in part the cost of acquiring property on or before December 31, 1921.

By Decision No. 10381, dated April 29, 1922, as amended, the Commission authorized The Pacific Telephone and Telegraph Company to execute a mortgage, to issue and sell, at not less than 91 per cent of face value, plus accrued interest, \$25,000,000 of general refunding mortgage 30-year 5 per cent bonds due May 1, 1952, and to use the proceeds to reimburse its treasury and to refund its outstanding obligations to the extent that its treasury was not reimbursed and its outstanding obligations were not met through the sale of the preferred stock authorized by Decision No. 10334, and to finance in part the cost of additions and extensions to its plants and systems described in Exhibit "AA" filed in Application No. 7792.

Applicant reports that it realized or will realize from the sale of the \$25,000,000 of stock, the sum of \$21,250,000 and from the sale of the \$25,000,000 of bonds the sum of \$22,750,000, making a total of \$44,000,000.

The Commission by its orders in the above entitled matters has authorized applicant to use moneys obtained from the sale of its stock

and bonds to pay indebtedness in the sum of \$22,340,000, which, deducted from the \$44,000,000, leaves a balance of \$21,660,000.

Applicant has filed statements showing that it has expended from January 1, 1922, to May 31, 1922, for plant and equipment, the sum of \$7,450,593.55, and that during the same time it has advanced to Southern California Telephone Company for similar purposes, the sum of \$4,192,264.93, making a total expenditure of \$11,642,857.51. This expenditure is said to include no interest during construction and represents the gross expenditure (\$12,972,349.09) less salvage (\$1,329,491.58). To finance temporarily part of the cost of its plant and equipment and the advances to Southern California Telephone Company, applicant borrowed, from January 1 to May 31, 1922, the sum of \$8,150,000. Deducting the \$8,150,000 from the \$11,642,857.51, leaves a balance of \$3,492,857.51. Applicant requests permission to use the proceeds obtained from the sale of its stock and bonds to pay \$22,340,000 of indebtedness outstanding on December 31, 1921, to pay indebtedness in the amount of \$8,150,000 incurred from January 1 to May 31, 1922, to finance to the extent of \$3,492,857.51 the acquisition and construction of its properties and advances to Southern California Telephone Company for construction purposes from January 1 to May 31, 1922, and to use \$10,017,142.49 of the proceeds to finance to the extent that they are sufficient therefor the cost of extensions and additions to its plants and its systems and advances to the Southern California Telephone Company for additions and extensions to its system made on or after June 1, 1922.

As said, the Commission already has by orders in the above entitled matter authorized the payment of \$22,340,000 of indebtedness outstanding on December 31, 1921. The matter before the Commission at this time is the payment of indebtedness incurred since January 1, 1922, and the financing of the acquisition and construction of applicant's properties and advances by applicant to Southern California Telephone Company to enable that company to construct and acquire properties.

The Commission has considered applicant's requests and believes that they should be granted as herein provided;

It is therefore ordered, that the order in Decision No. 10381, dated April 29, 1922, as amended, be and it is hereby modified so as to permit The Pacific Telephone and Telegraph Company to use part of the proceeds from the sale of the \$25,000,000 of bonds authorized by the said decision to pay indebtedness incurred between December 31, 1921, and May 31, 1922, such indebtedness amounting to \$8,150,000; to finance to the extent of \$3,492,857.51 the acquisition and construction of applicant's properties and advances by applicant to Southern California

Telephone Company for the acquisition and construction of properties from January 1 to May 31, 1922, and to use the remainder of the proceeds (\$10,017,142.49) obtained from the sale of said bonds to finance to the extent that they are sufficient therefor the cost of additions and extensions to applicant's plants and systems and advances to Southern California Telephone Company for additions and extensions to its plant and system made on and after June 1, 1922, provided:

(a) That only such expenditures as are properly chargeable to capital accounts under the uniform system of accounts for telephone companies prescribed by the Interstate Commerce Commission and adopted by this Commission may be paid by the use of proceeds obtained from the sale of bonds; and provided:

(b) That applicant file with the Commission as part of the General Order No. 24 monthly reports and statements showing the purposes for which the \$10,017,142.49 is being expended.

It is hereby further ordered, that the order in Decision No. 10381, dated April 20, 1922, as amended, shall remain in full force and effect, except as modified by this third supplemental order in Application No. 7792.

Dated at San Francisco, California, this seventh day of July, 1922.

MISCELLANEOUS AND SUPPLEMENTAL ORDERS.

AUTO STAGE APPLICATIONS.

DISMISSALS.

GRADE CROSSINGS.

TABLE A. Miscellaneous and Supplemental Orders.

Dec. No.	Applica- tion No.	Applicant	Nature of proceeding	Date
9051	5567	Pacific Gas and Electric Company	Petition for rehearing electric rates denied	June 3, 1921
9052	5585	Great Western Power Company	Petition for rehearing electric rates denied	June 3, 1921
9053	6853	Huntington Beach Water Company	Authorized to sell certain real property	June 9, 1921
9054	6241	B. and H. Transportation Company	Supplemental order authorizing use of \$28,390.20 for equipment and properties	June 9, 1921
9055	6781	Los Angeles Railway Corporation	Authorized to sell certain real property	June 9, 1921
9056	6854	Juan F. Camarillo	Authorized to sell certain water plant at Camarillo to Stanton Baker	June 9, 1921
9057	6165	Macay Rancho Water Company	Agreeing order with reference to disposition of proceeds from sale of debenture notes	June 9, 1921
9058	6827	Central Counties Gas Company	Supplemental order amending Decision No. 9102 authorizing sale of bonds	June 21, 1921
9059	6863	Western States Gas and Electric Company	Supplemental order amending Decision No. 9069 authorizing sale of bonds	June 21, 1921
9135	6862	Port Costa Water Company	Authorized sale of certain property to W. A. Hinesley	June 21, 1921
9136	6931	Imperial Land Company	Supplemental order extending time for filing of revised schedules for street lighting	June 27, 1921
9166	5594	Southern California Edison Company	Authorized sale to Fontana Power Company of branch electrical transmission line in Fontana, Riverside	June 27, 1921
9167	6866	The Southern Sierras Power Company	Supplemental order correcting appendix "A," Decision No. 6853	June 28, 1921
9172	6853	Huntington Beach Water Company	Supplemental order reducing surcharge	June 29, 1921
9183	5889	Bay Point Light and Power Company	Authorized agreement between applicants in re electric rates	June 30, 1921
9187	6967	Merced Irrigation District and San Joaquin Light and Power Corporation	Supplemental order authorizing lease and sale of certain electrical distributing systems	July 2, 1921
9206	3666	Southern California Edison Company and City of Pasadena	Agreeing erection of wharf at Crescent City	July 7, 1921
9208	6978	Del Norte Packing Corporation	Petition for rehearing electric rates denied	July 11, 1921
9216	5767	Pacific Gas and Electric Company	Authorized issuance and sale of 130 shares capital stock	July 12, 1921
9217	6902	Susun and Green Valley Telephone Company	Supplemental order extending time for submitting revised contract	July 12, 1921
9226	6197	Pacific Gas and Electric Company and San Joaquin Light and Power Corporation	Authorized transfer of property	July 15, 1921
9232	6985	New Manzanita Gold Mining Company and Excelsior Water and Mining Company	Supplemental order modifying Decision No. 8498 and permitting issuance and sale of stock at not less than 75 per cent. par value	July 15, 1921
9237	6964	East Sacramento Water Company	Supplemental order authorizing issuance and sale of stock	July 21, 1921
9251	6716	East Bay Water Company	Supplemental order authorizing rates, telephone service	July 21, 1921
9252	5212	East Bay Water Company	Supplemental order amending Decision No. 8485 permitting sale of bonds	July 23, 1921
9258	5830	A. B. Tognini, G. Ghezzi and F. Dalidio	Supplemental order approving stipulation franchise value	July 23, 1921
9260	6137	Pasadena Consolidated Water Company	Approving issuance of \$130 of stock in lieu of stock heretofore issued without permission	July 30, 1921
9292	6917	Citrus Bell Gas Company	Supplemental order amending Decision No. 8491 and extending time within which transfer shall be made	Aug. 9, 1921
9306	7014	Escondido Water and Light Company	Authorized to sell certain real property	Aug. 10, 1921
9334	5503	The Union Water Company of California and The Union Water Development Company		
9345	6970	East Bay Water Company		

4937	5734	San Dimas Charter Oak Domestic Water Company	Supplemental order authorizing payment of interest on notes	Aug.	10, 1921
4968	7079	Western States Gas and Electric Company	Authorized to issue and sell notes for construction	Aug.	16, 1921
4973	7030	Pacific Electric Railway Company	Authorized to abandon and remove spur track, C. & N. station.	Aug.	16, 1921
4983	6541	Pacific Gas and Electric Company	Approving exercise of franchise rights granted by City of Grass Valley	Aug.	19, 1921
4984	7034	Grangers Business Association	Approving removal of right to contract, cart and take tolls	Aug.	19, 1921
4987	C1611	Coast Valleys Gas and Electric Company	Modifying rates fixed in Decision No. 8037	Aug.	23, 1921
4993	5903	Southern California Gas Company	Authorizing change in gas rates	Aug.	23, 1921
4997	C1407	City of Riverside	Complaint against the gas company dismissed	Aug.	23, 1921
4998	6519	A. L. Leighton and Fred W. Anna M. C. C. and Pearl Highway	Authorized to sell Artesia Water Company	Aug.	24, 1921
4999	6829	Delta Warehouse Company	Approving stipulation franchise value	Aug.	30, 1921
5000	6907	Mered Irrigation District and San Joaquin Light and Power Corporation			
5001	7061	George and Lily Berg	Petition of consumers for rehearing denied	Aug.	31, 1921
5002	7074	Presadena Electric Express Company	Authorizing George Berg to transfer by gift to his daughter, Lily Berg, telephone system	Aug.	31, 1921
5003	7113	Utah Gas Company	Supplemental order amending Decision No. 9137, interest on note	Sept.	7, 1921
5004	7116	Utah Gas Company	Authorized to sell gas plant to town of Ukiah City	Sept.	8, 1921
5005	7117	Utah Gas Company	Authorizing sale of water system at Avila	Sept.	8, 1921
5006	7118	Utah Gas Company	Authorized to sell certain real property	Sept.	8, 1921
5007	7119	Utah Gas Company	Petition of City of San Bernardino for rehearing denied	Sept.	14, 1921
5008	7120	Southern California Gas Company	Supplemental order reducing certain rates in Decision No. 9127	Sept.	14, 1921
5009	7121	P. T. Durly	Supplemental order amending Decision No. 6808 to extend time for completion of transfer of Sherman Water System	Sept.	19, 1921
5010	7020	Pacific Gas and Electric Company	Authorized to transfer La Grange power house, etc., to Turlock Irrigation District and Modesto Irrigation District	Sept.	27, 1921
5011	7021	West-Riverside Canal Company	Supplemental order amending Decision No. 4010 authorizing change in bank	Sept.	27, 1921
5012	7022	San Diego Electric Railway Company	Supplemental order amending Decision No. 1851 extending time within which to issue bonds	Sept.	27, 1921
5013	7023	Lake Forest Water Company	Hearing set to consider proposed modification of Decision No. 9279	Sept.	30, 1921
5014	7024	California Southern Railroad Company	Supplemental order amending order in Decision No. 7104 to permit sale of \$55,000 first mortgage bonds	Sept.	30, 1921
5015	7025	Great Western Power Company of California	Supplemental order modifying order in Decision No. 9295, to permit sale of \$440,000 bonds	Oct.	14, 1921
5016	6574	The California Oregon Power Company	Supplemental order authorizing use of additional bond sale proceeds for capital expenditures	Oct.	14, 1921
5017	7024	Grangers' Business Association	Supplemental order approving stipulation	Oct.	14, 1921
5018	6426	Southern California Edison Company	Supplemental order authorizing use of not exceeding \$2,194,750.99 of proceeds of sale of stock	Oct.	14, 1921
5019	6967	Mered Irrigation District and San Joaquin Light and Power Corporation	Supplemental order approving agreement	Oct.	26, 1921
5020	7284	Fred Walker, J. E. Anderson, H. M. Thompson, Harry Powell and Oscar Lee	Authorized to transfer to Bay Cities Transit Company which is authorized to issue stock in exchange for operative rights	Oct.	26, 1921
5021	7213	Ida P. Gardiner, et al	Approving franchise of Sacramento County in re wharf	Oct.	28, 1921
5022	7012	Nemaha Land Company	Authorized to sell certain properties to Consolidated Water Company	Oct.	28, 1921
5023	7007	Granite Rock Water Company	Authorized to buy and operate water system, Moss Beach Water Company	Nov.	4, 1921
5024	6263	Blake Independent Telephone System	Authorized to discontinue service in and about Arcata	Nov.	4, 1921
5025	7011	J. Max Landrum	Authorized to transfer telephone system to C. H. Lentz and A. A. Harrington	Nov.	4, 1921
5026	6858	Coast Truck Line	Authorized to issue and sell \$3,000 common capital stock	Nov.	8, 1921
5027	7155	The Pacific Telephone and Telegraph Company	Approving franchise rights granted by City of Arcata	Nov.	17, 1921

TABLE A. Miscellaneous and Supplemental Orders—Continued.

Dec. No.	Applica- tion No.	Applicant	Nature of proceeding	Date
9773	6737	Peninsula Water Company.....	Supplemental order correcting typographical error in Decision No. 9695.	Nov. 17, 1921
9776	7087	Puente Packing Company.....	Supplemental order approving stipulation franchise value.	Nov. 17, 1921
9777	4888	Highland Domestic Water Company.....	Supplemental order approving stipulation franchise value.	Nov. 18, 1921
9778	6732	Highland Domestic Water Company.....	Supplemental order approving stipulation franchise value.	Nov. 18, 1921
9782	7538	Carl L. Voigt, Frances Voigt, Lorin F. Voigt and Helen Voigt.....	Authorized to transfer to L. C. Hansen water plant at Empire.	Nov. 18, 1921
9786	7126	Midland Counties Public Service Corporation.....	Supplemental order modifying Decision No. 9678, exchange bonds.	Nov. 18, 1921
9787	1171	Abner Bros. Milling Company.....	Supplemental order extending time for establishing arrangements for milling, clean- ing, storing, etc., of grain in transit.	Nov. 19, 1921
9801	C1326	Archison, Tonpeka and Santa Fe Ry. Co., etc.	Supplemental order authorizing sale of additional \$73,619.07.	Nov. 23, 1921
9801	6741	Woodworth Campbell agent.....	Petition of counsel for pre-tests for rehearing denied.	Nov. 26, 1921
9827	6126	Southern California Edison Company.....	Supplemental order authorizing use of proceeds from sale of \$1,000,000 common stock.	Nov. 30, 1921
9828	7572	Western Pacific Railroad Company.....	Authorized to abandon and remove spur track, "Cleveland Spur".	Nov. 30, 1921
9835	7270	Livermore Water Company.....	Authorized to transfer its system to Contra Costa Irrigation System.	Dec. 3, 1921
9840	7532	Harbor Land Company.....	Authorized to transfer to East Bay Water Company plant and water system.	Dec. 3, 1921
9840	7531	Harbor F. Brown, Inc.....	Authorized to transfer plant and system to East Bay Water Company.	Dec. 3, 1921
9841	7531	Spring Estate Company.....	Authorized to transfer water pipe and system to East Bay Water Company.	Dec. 3, 1921
9852	7535	Contra Costa Realty Company.....	Authorized to transfer plant and system to East Bay Water Company.	Dec. 3, 1921
9860	3530	Santa Maria Gas Company.....	Supplemental order authorizing use of \$3,385.10 for additions.	Dec. 10, 1921
9861	9680	Oakland Water Company.....	Petition for rehearing denied.	Dec. 10, 1921
9873	7538	M. C. and C. W. Langstaff.....	Authorized to sell Forest Hill Telephone exchange to Fred Rupley.	Dec. 10, 1921
9881	7591	Fresno City Water Corporation.....	Authorized to modify mortgage in Decision No. 9863 to permit investment of moneys in sinking fund.	Dec. 16, 1921
9882	7573	Southern California Edison Company.....	Supply in retail order authorizing use of \$2,502,880.31.	Dec. 16, 1921
9888	C1225	R. G. Williams et al.....	Application for modification of rate schedule denied.	Dec. 16, 1921
9894	6741	San Diego Consolidated Gas and Electric Company.....	Supplemental order authorizing use of \$12,214.48 sale of bonds.	Dec. 20, 1921
9896	6571	The California Oregon Power Company.....	Supplemental order authorizing use of additional \$73,301.71.	Dec. 20, 1921
9897	3530	Santa Maria Gas Company.....	Supplemental order authorizing use of \$1,159.52 for additions.	Dec. 20, 1921
9899	C1621	Mary L. Barrington.....	Petition of defendant for rehearing denied.	Dec. 20, 1921
9905	6866	The Southern Sierras Power Company.....	Authorized to sell to Southern California Edison Company certain branch electrical transmission line in Fontana Townsite.	Dec. 21, 1921
9907	1721	Castro Point Railway and Terminal Company.....	Authorized to exchange lands with Richard C. Godspeed.	Dec. 23, 1921
9923	7253	California-Michigan Land and Water Company.....	Denying applications for rehearing.	Dec. 28, 1921
	C970	The Municipal League.....	Denying applications for rehearing.	Dec. 28, 1921
	C971	Civic Development Association of Los Angeles.....	Denying applications for rehearing.	Dec. 28, 1921
	C972	Civic Center Association of Los Angeles.....	Denying applications for rehearing.	Dec. 28, 1921
9935	C974	City of Pasadena.....	Denying applications for rehearing.	Dec. 28, 1921
	C980	City of Alhambra.....	Denying applications for rehearing.	Dec. 28, 1921
	C981	City of San Gabriel.....	Denying applications for rehearing.	Dec. 28, 1921
	C983	City of South Pasadena.....	Denying applications for rehearing.	Dec. 28, 1921
	C3346	Pacific Electric Railway Company et al.....	Denying applications for rehearing.	Dec. 28, 1921
9954	7306	Los Angeles and Salt Lake Railroad Company.....	Authorized to abandon Risler Spur.	Dec. 30, 1921

9955	7437	E. H. Learned	Authorized to sell water main and pipe to City of Glendale	Dec.	30, 1921
9963	7305	Los Angeles and Salt Lake Railroad	Authorized to abandon shelter station at Raymonte	Jan.	4, 1922
9965	7401	Los Angeles and Salt Lake Railroad Company	Authorized to abandon station at Rowland	Jan.	4, 1922
9967	7245	Southern California Gas Company	Supplemental order amending Decision No. 9271	Jan.	4, 1922
9974	7448	W. C. Booth	To sell water plant, Agua Caliente Park, Sonoma County	Jan.	9, 1922
9978	6852	G. F. Green	Authorization to permanently retain service connection charges	Jan.	9, 1922
9981	C1352	P. N. Ashley, Harry A. Dutton, et al.	Petition of complainants for rehearing denied	Jan.	9, 1922
9985	3718	City of Redding	Petition of Pacific Gas and Electric Company for rehearing denied	Jan.	12, 1922
9987	5026	Water D. Hines, U. S. R. Admin., et al.	Denying petition for rehearing	Jan.	12, 1922
9989	7465	San Joaquin Light and Power Corporation	Authorized to issue 50,000 shares of 7 per cent cumulative prior preferred stock	Jan.	12, 1922
9990	6933	San Diego and Arizona Ry. Company	Supplemental order amending Decision No. 9242	Jan.	17, 1922
10002	6574	The California Oregon Power Company	Supplemental order amending Decision No. 8731	Jan.	17, 1922
10007	7422	Associated Telephone Company	Approving agreement of sale of certain real property, Long Beach	Jan.	20, 1922
10011	7373	Southern California Edison Company	Supplemental order amending orders in Decisions in Apps. 2743, 4790, 5312, 6426 and 7373	Jan.	20, 1922
10012	7491	Fresno City Railway Company	Authorized to assign to Fresno Traction Company certain franchises	Jan.	21, 1922
10015	2851	Western Pacific Railroad Company et al.	Supplemental order amending orders in Decisions Nos. 3453 and 8834	Jan.	21, 1922
10024	7373	Southern California Edison Company	Supplemental order amending orders in Decisions in Appeals Nos. 2743, 4790, 5312, 6426 and 7373	Jan.	25, 1922
10031	7425	Bear Gulch Water Company	Supplemental order amending order in Decision No. 9976	Jan.	30, 1922
10032	6744	Thomas Richards	Supplemental order amending order in Decision No. 8956	Jan.	30, 1922
10033	7355	Richards Trucking and Warehouse Company	Authorized to sell Richards Trucking and Warehouse Company	Jan.	30, 1922
10039	7506	Home Telephone Company of Covina	Authorized to issue stock	Jan.	30, 1922
10046	C1674	Alexander Cummings et al.	Authorizing rates and installation of meters	Jan.	30, 1922
10047	7514	Ukiah Water and Improvement Company	Authorized to sell real estate, etc.	Feb.	2, 1922
10048	7517	Oakland and Antioch Land Company	Authorized to sell physical properties to Town of Ukiah	Feb.	2, 1922
10053	7489	Los Angeles Railway Corporation	Authorized to transfer to Port Costa Water Company	Feb.	2, 1922
10054	7500	San Francisco-Oakland Terminal Railways	Authorized to sell certain real property	Feb.	2, 1922
10055	6234	Dr. C. Edgar Smith	Authorized to suspend operation over portion of system, Richmond	Feb.	2, 1922
10056	6287	Reedley Telephone Company	Supplemental order approving agreement and bond and extending time	Feb.	2, 1922
10057	7245	Southern California Gas Company	Supplemental order authorizing issue of bonds in Decision No. 9255	Feb.	2, 1922
10060	5825	Atchison, Topeka and Santa Fe Railway Co.	Supplemental order amending Decision No. 9721	Feb.	2, 1922
10061	7153	N. C. Green	Denying application for rehearing	Feb.	2, 1922
10081	7385	California Telephone and Light Company	Supplemental order cancelling Decision No. 9697	Feb.	3, 1922
10082	4682	United Stages, Inc.	Supplemental order modifying order in Decision No. 9916	Feb.	8, 1922
10085	C1610	Harry C. Rahn vs. Jesse S. Harker	Supplemental order amending order in Decision No. 8551	Feb.	8, 1922
10089	6637	Sonoma Valley Water, Light and Power Company	Supplemental order amending order in Decision No. 9947	Feb.	8, 1922
10090	6923	San Fernando Telephone and Telegraph Company	Supplemental order amending order in Decision No. 9683	Feb.	8, 1922
10091	5776	Bay Rapid Transit Company	Supplemental order modifying order in Decision No. 9197	Feb.	15, 1922
10116	7402	River Bend Gas and Water Company	Supplemental order amending Decision No. 10045	Feb.	15, 1922
10117	7554	H. P. C. Besse and Juan Fria	Supplemental order amending and modifying order in Decision No. 9994	Feb.	15, 1922
10143	6304	San Francisco-Oakland Terminal Railways	Denied permission to transfer to Charles Mueller water system, Chihuahuguita	Feb.	21, 1922
10150	7245	South Valley Railroad Company	Supplemental order modifying Decisions Nos. 9721 and 9859	Feb.	21, 1922
10168	2073	Coronado Water Company	Supplemental order modifying Decisions Nos. 3099	Mar.	6, 1922
10181	7228	Home Telephone Company of Covina	Supplemental order modifying Decision No. 8550	Mar.	8, 1922
10190	6289	Fresno City Water Corporation	Petition of E. W. Peterson for rehearing denied	Mar.	11, 1922
10191	7363	Fresno City Water Corporation	Supplemental order modifying Decision No. 8550	Mar.	11, 1922
10192	C1584	Ontario Investment Company	Supplemental order modifying Decision No. 9863 so as to permit the use of proceeds from sale of \$48,942.53 of bonds	Mar.	14, 1922
			Application for rehearing denied	Mar.	14, 1922

TABLE A. Miscellaneous and Supplemental Orders—Concluded.

Dec. No.	Applicant	Applic- tion No.	Applicant	Nature of proceeding	Date
10104	California Oregon Power Company	6574	California Oregon Power Company	Supplemental order authorizing expenditure of additional \$92,943.57	Mar. 14, 1922
10107	Bay Transport Company	7276	Bay Transport Company	Supplemental order authorizing issuance of \$38,000 of common stock	Mar. 15, 1922
10190	Cascade Land Company	7642	Cascade Land Company	Authorized to sell to Marin Municipal Water District, water system.	Mar. 15, 1922
10200	People, State of California, Town of Tehachapi, vs. Southern Pacific Company	C1482	People, State of California, Town of Tehachapi, vs. Southern Pacific Company		
10205	San Joaquin Light and Power Corporation	5207	San Joaquin Light and Power Corporation	Supplemental order modifying order in Decision No. 8584	Mar. 15, 1922
10206	East Bay Water Company	7092	East Bay Water Company	Supplemental order modifying order in Decision No. 7057	Mar. 17, 1922
10207	San Joaquin Light and Power Corporation	7465	San Joaquin Light and Power Corporation	Supplemental order modifying order in Decision No. 9655	Mar. 17, 1922
10208	Plumas Light and Power Company	7662	Plumas Light and Power Company	Supplemental order modifying order in Decision No. 9989	Mar. 17, 1922
10209	Southern California Edison Company	5949	Southern California Edison Company	Authorizing County Sheriff to auction electric light and power lines.	Mar. 18, 1922
10210	Ojai Power Company	7275	Ojai Power Company	Granting petition of protestants for rehearing.	Mar. 18, 1922
10219	San Dimas-Charter Oak Domestic Water Company	7603	San Dimas-Charter Oak Domestic Water Company	Supplemental order modifying Decision No. 9872	Mar. 21, 1922
10225	Sacramento Northern Railroad	7147	Sacramento Northern Railroad	Rescinding order in Decision No. 7308.	Mar. 23, 1922
10232	Ivey Lewis Borden vs. The California Company	C1302	Ivey Lewis Borden vs. The California Company	Supplemental order for rehearing denied.	Mar. 27, 1922
10233	Pacific Electric Railway Company	7667	Pacific Electric Railway Company	Petition of complainant for rehearing denied.	Mar. 27, 1922
10234	Emergency Transportation Company	3754	Emergency Transportation Company	Authorized to remove portion of track, Seventh street, Riverside	Mar. 27, 1922
10236	Sutter Butte Canal Company	7672	Sutter Butte Canal Company	Supplemental order approving stipulation franchise value	Mar. 27, 1922
10245	Southern California Edison Company	7373	Southern California Edison Company	Authorized to issue note in renewal of outstanding note	Mar. 27, 1922
10258				Supplemental order modifying orders in decisions in Applications Nos. 2743, 4790, 5312, 6426 and 7373	Mar. 27, 1922
10264	P. Kavalowski	7580	P. Kavalowski	Authorized to transfer water consumers and supply to J. M. Goyke.	Mar. 29, 1922
10270	W. P. Fuller and Company vs. Southern Pacific	C1684	W. P. Fuller and Company vs. Southern Pacific	Petition of complainant for rehearing denied.	Mar. 29, 1922
10271	Huntington Beach Water Company	7689	Huntington Beach Water Company	Authorized to exchange real estate.	Apr. 1, 1922
10272	Pacific Gas and Electric Company	7680	Pacific Gas and Electric Company	Authorized to exercise franchise rights and construct system, Corte Madera.	Apr. 1, 1922
10275	Pacific Gas and Electric Company	7560	Pacific Gas and Electric Company	Authorized to exercise franchise rights granted by Marin County.	Apr. 1, 1922
10278	Pacific Telephone and Telegraph Company and Bell Telephone Company	7559	Pacific Telephone and Telegraph Company and Bell Telephone Company		Apr. 5, 1922
10288		7663		Authorized to exercise franchise rights granted by Marin County.	Apr. 5, 1922
10290	Spring Valley Water Company	7683	Spring Valley Water Company	Authorized to acquire preferred capital stock of California Telephone and Light Company	Apr. 6, 1922
10300	Walnut Growers' Warehouse Company	7675	Walnut Growers' Warehouse Company	Authorized to sell real property to Lake Merced Golf and Country Club.	Apr. 6, 1922
10301	Idyllwild, Inc.	7382	Idyllwild, Inc.	Authorized to sell and issue not to exceed \$1,000 capital stock.	Apr. 12, 1922
10314	Belvedere Land Company	7708	Belvedere Land Company	Authorized to exercise functions of public utility.	Apr. 12, 1922
10315	Colorado Water Company	7712	Colorado Water Company	Authorized to sell water system to Marin Municipal Water District	Apr. 14, 1922
10316	City of Taft and Western Water Company	7739	City of Taft and Western Water Company	Authorized to purchase water system from E. W. Peterson	Apr. 14, 1922
10317	California Oregon Power Company	7488	California Oregon Power Company	Authorizing modification of rates for fire service, City of Taft.	Apr. 14, 1922
10319	Golden Gate Ferry Company	6316	Golden Gate Ferry Company	Supplemental order modifying order in Decision No. 10,009	Apr. 14, 1922
10324	Consolidated Canal Company	7748	Consolidated Canal Company	Supplemental order amending order in Decision No. 8511	Apr. 14, 1922
10326	Western States Gas and Electric Company	7604	Western States Gas and Electric Company	Authorized to sell to Consolidated Irrigation District, certain property	Apr. 15, 1922
10327	California Transit Company	7693	California Transit Company	Supplemental order modifying order in Decision No. 10162	Apr. 17, 1922
10333	Excelsior Water and Mining Company	6427	Excelsior Water and Mining Company	Denying motion of San Francisco-Oakland Terminal Railways in re application	Apr. 17, 1922
10349	California Oregon Power Company	6574	California Oregon Power Company	Petition of Yuba-Nevada Water Users' Association for rehearing granted	Apr. 19, 1922
10359	Peninsular Railway Company	7765	Peninsular Railway Company	Supplemental order modifying order in Decision No. 8731	Apr. 22, 1922
			Company	Authorized to exchange certain property with Standard Realty and Development Company	
10361	San Joaquin Light and Power Corporation	7715	San Joaquin Light and Power Corporation	Supplemental order modifying order in Decision No. 10294	Apr. 25, 1922
10388	I. H. Skillman	7788	I. H. Skillman	Authorized to sell Bidwell Electric Company to Empire Mill and Electric Company.	May 2, 1922

10396	J. H. Stubbe	Supplemental order authorizing discontinuance of water service	May 2, 1922
10398	Excelsior Water and Mining Company	Rehearing amending order in Decision No. 9986	May 3, 1922
10406	Southern California Edison Company	Denying petition for rehearing	May 4, 1922
10409	The Southern Sierras Power Company	Authorizing issuance and sale of bonds	May 4, 1922
10410	San Joaquin Light and Power Corporation	Supplemental order modifying Decision No. 10348	May 4, 1922
10411	San Joaquin Light and Power Corporation	Supplemental order discontinuing charge of 3 cents per M cubic feet	May 4, 1922
10412	Southern California Gas Company	Supplemental order discontinuing charge of 3 cents per M cubic feet	May 4, 1922
10413	Los Angeles Gas and Electric Corporation	Authorized to dispose of certain real property	May 4, 1922
10414	Bay Side Land Company	Authorized to sell to City of Seal Beach certain pipe lines	May 4, 1922
10418	The Atchison, Topeka and Santa Fe Railway Co.	Supplemental order amending description in Decision No. 10254	May 5, 1922
10424	Associated Telephone Company	Supplemental order modifying order in Decision No. 10006	May 5, 1922
10433	In re Southern California Edison Company	Petition of Yucaipa Water Company No. 1 et al. for rehearing denied	May 10, 1922
10434	The Pacific Telephone and Telegraph Company	Supplemental order modifying order in Decision No. 10381	May 10, 1922
10439	Peninsular Ry. Co. and Southern Pacific Company	Authorizing lease of portion of railroad and lands	May 10, 1922
10447	Anna Lena Payne and O. P. Payne	Authorized to sell to F. G. Gensner electric generating plant	May 12, 1922
10472	Needles Gas and Electric Company	Supplemental order modifying order in Decision No. 7373	May 17, 1922
10479	Pacific Electric Railway Company and Southern Pacific Company	Authorizing agreement for use of certain tracks of Pacific Electric by Southern Pacific Company, Los Angeles	May 18, 1922
10480	San Fernando Telephone and Telegraph Company	Supplemental order modifying order in Decision No. 9197	May 20, 1922
10483	Pacific Electric Railway Company	Authorized to remove and abandon spur	May 20, 1922
10487	Peninsular Railway Company and San Jose Railroad	Authorized to enter into certain contract relating to joint use of street railway lines in County of Santa Clara, dated March 1, 1922	May 22, 1922
10494	Associated Oil Company	Approving renewal of applicant's wharf franchise, Contra Costa County	May 22, 1922
10495	Sutter-Butte Canal Company	Petition for rehearing denied	May 22, 1922
10506	California Oregon Power Company	Authorized to issue and sell preferred stock	May 26, 1922
10507	Pacific Gas and Electric Company and J. D. and A. B. Spreckels Securities Company	Authorizing sale of certain real property by former to latter	May 26, 1922
10512	Delta Telephone and Telegraph Company	Former authorizing to sell to latter telephone property, Sacramento	May 26, 1922
10513	Peninsular Railway Company and San Jose R. R.s	Rescinding Decision No. 1350	May 26, 1922
959	Chas. S. Mann	Authorized to sell water supply system to City of Sierra Madre	June 6, 1922
7854	N. M. Peterson (Mountain Ave. Water Co.)	Supplemental order amending rates in Decision No. 10391	June 7, 1922
7630	San Joaquin Light and Power Corporation	Supplemental order amending order in Decision No. 9989	June 8, 1922
7465	Murray Land Company	Authorized to sell water distributing system to Marin Municipal District	June 16, 1922
7885	Great Western Power Company of California	Supplemental order amending order in Decision No. 10355	June 22, 1922
7754	East Bay Water Company	Authorized to sell real property	June 22, 1922
7843	Angiola Water Company	Authorized to sell its property to Corcoran Irrigation District	June 22, 1922
7952	Rescent Investment Company	Authorized to sell certain pipe lines to East Bay Water Company	June 24, 1922
7956	Santa Barbara Telephone Company	Authorized to sell certain property to Pacific Telephone and Telegraph Company	June 24, 1922
7966	Frank Pellissier and Interstate Telephone Company	Authorizing transfer of telephone line, Bishop-Mono County	July 1, 1922
7934			July 1, 1922
7015	J. H. Stubbe	Supplemental order authorizing discontinuance of water service	May 2, 1922
6427	Excelsior Water and Mining Company	Rehearing amending order in Decision No. 9986	May 3, 1922
10398	Southern California Edison Company	Denying petition for rehearing	May 4, 1922
10406	The Southern Sierras Power Company	Authorizing issuance and sale of bonds	May 4, 1922
10409	San Joaquin Light and Power Corporation	Supplemental order modifying Decision No. 10348	May 4, 1922
10410	San Joaquin Light and Power Corporation	Supplemental order discontinuing charge of 3 cents per M cubic feet	May 4, 1922
10411	Southern California Gas Company	Supplemental order discontinuing charge of 3 cents per M cubic feet	May 4, 1922
10412	Los Angeles Gas and Electric Corporation	Authorized to dispose of certain real property	May 4, 1922
10413	Bay Side Land Company	Authorized to sell to City of Seal Beach certain pipe lines	May 4, 1922
10414	The Atchison, Topeka and Santa Fe Railway Co.	Supplemental order amending description in Decision No. 10254	May 5, 1922
10418	Associated Telephone Company	Supplemental order modifying order in Decision No. 10006	May 5, 1922
10424	In re Southern California Edison Company	Petition of Yucaipa Water Company No. 1 et al. for rehearing denied	May 10, 1922
10433	The Pacific Telephone and Telegraph Company	Supplemental order modifying order in Decision No. 10381	May 10, 1922
10434	Peninsular Ry. Co. and Southern Pacific Company	Authorizing lease of portion of railroad and lands	May 10, 1922
10439	Anna Lena Payne and O. P. Payne	Authorized to sell to F. G. Gensner electric generating plant	May 12, 1922
10447	Needles Gas and Electric Company	Supplemental order modifying order in Decision No. 7373	May 17, 1922
10472	Pacific Electric Railway Company and Southern Pacific Company	Authorizing agreement for use of certain tracks of Pacific Electric by Southern Pacific Company, Los Angeles	May 18, 1922
10479	San Fernando Telephone and Telegraph Company	Supplemental order modifying order in Decision No. 9197	May 20, 1922
6923	Pacific Electric Railway Company	Authorized to remove and abandon spur	May 20, 1922
7451	Peninsular Railway Company and San Jose Railroad	Authorized to enter into certain contract relating to joint use of street railway lines in County of Santa Clara, dated March 1, 1922	May 22, 1922
7839	Associated Oil Company	Approving renewal of applicant's wharf franchise, Contra Costa County	May 22, 1922
7682	Sutter-Butte Canal Company	Petition for rehearing denied	May 22, 1922
7317	California Oregon Power Company	Authorized to issue and sell preferred stock	May 26, 1922
7808	Pacific Gas and Electric Company and J. D. and A. B. Spreckels Securities Company	Authorizing sale of certain real property by former to latter	May 26, 1922
7827	Delta Telephone and Telegraph Company	Former authorizing to sell to latter telephone property, Sacramento	May 26, 1922
7866	Peninsular Railway Company and San Jose R. R.s	Rescinding Decision No. 1350	May 26, 1922
959	Chas. S. Mann	Authorized to sell water supply system to City of Sierra Madre	June 6, 1922
7854	N. M. Peterson (Mountain Ave. Water Co.)	Supplemental order amending rates in Decision No. 10391	June 7, 1922
7630	San Joaquin Light and Power Corporation	Supplemental order amending order in Decision No. 9989	June 8, 1922
7465	Murray Land Company	Authorized to sell water distributing system to Marin Municipal District	June 16, 1922
7885	Great Western Power Company of California	Supplemental order amending order in Decision No. 10355	June 22, 1922
10604	East Bay Water Company	Authorized to sell real property	June 22, 1922
10610	Angiola Water Company	Authorized to sell its property to Corcoran Irrigation District	June 22, 1922
10627	Rescent Investment Company	Authorized to sell certain pipe lines to East Bay Water Company	June 24, 1922
10638	Santa Barbara Telephone Company	Authorized to sell certain property to Pacific Telephone and Telegraph Company	June 24, 1922
10652	Frank Pellissier and Interstate Telephone Company	Authorizing transfer of telephone line, Bishop-Mono County	July 1, 1922
10654			July 1, 1922

TABLE B. Auto Stage Applications.

Dec. No.	Applica- tion No.	Applicant	Nature of proceeding	Action	Date
9030	5317	J. Boshoff.	Supplemental order extending time within which to commence service.	Granted	June 1, 1921
9033	6633	W. S. Brunner and F. W. Lilyard.	To operate passenger service, Willis-Cloverdale.	Denied	June 1, 1921
9037	6508	Fisher and Cassatt.	To operate express ice service, Calexico-Heber-El Centro-Willie.	Denied	June 3, 1921
9040	6391	W. M. Sanford, J. M. Maurer, F. Governor, W. Irwin.	Petition for rehearing by Southern Pacific Company.	Granted	June 3, 1921
9041	6822	Reul N. Wright and Nathan S. Lockwood.	To transfer freight truck line between Los Angeles and Muroc.	Granted	June 3, 1921
9042	6798	Hather & Hather and R. C. Dear.	To transfer stage line between Bakersfield and McKittrick.	Granted	June 3, 1921
9043	6772	Harry Lord, F. Ray and Hosea B. Turman, Jr.	To operate passenger service between Willows and Oroville.	Granted	June 3, 1921
9044	6810	Harry L. Staples and Jas. W. Gray.	To transfer stage line between San Francisco and Pescadero.	Granted	June 3, 1921
9045	6813	Manuel Barcia and Anton Nelson.	To transfer interest, stage line, San Luis Obispo and Avila.	Granted	June 3, 1921
9047	6416	Guy C. Weldon and Earl Snyder.	Applicants declined to accept certificates previously granted and rights were transferred to applicants in Application 6428.	Granted	June 3, 1921
	6428	H. L. Boutell and H. S. Fuqua.	To operate stage line, Winters-Monticello.	Granted	June 4, 1921
9053	6522	V. V. Anderson.	To operate stage line, Blairsden-Lake Center Camp.	Granted	June 4, 1921
9055	6461	Green and Green.	To operate stage line, Bishop-Nevada State line.	Granted	June 6, 1921
9058	6667	Nevada California Auto Stage Company.	To operate stage line, Susanville-Eagle Lake.	Granted	June 6, 1921
9059	6884	Smith & Ramsey.	To operate stage line, Jackson-Silver Lake.	Granted	June 6, 1921
9060	6879	E. J. Keyes.	Supplemental order extending service.	Granted	June 6, 1921
9062	6411	Smith and Ramsey.	Change in route between Stockton and Angels Camp.	Granted	June 8, 1921
9067	6794	Turner Lillie.	To transfer truck line between San Diego and San Pasqual.	Granted	June 8, 1921
9068	6874	E. E. Webb, Ervin C. Georgeson, C. E. Georgeson.	To transfer freight line between Los Angeles and Big Sur.	Granted	June 8, 1921
9069	6890	H. V. Freeman and A. J. Richardson.	To transfer freight and express service, S. F. and points So. of San Jose.	Denied	June 9, 1921
9071	6865	J. W. Post, Jr., and George E. Farmer.	To operate passenger freight service, Napa-Napa Soda Springs.	Denied	June 9, 1921
9075	6636	Monterey-San Francisco Express Company.	Petition for rehearing.	Denied	June 9, 1921
9079	6870	Anna E. Vaughan, J. R. Thompson and H. Warner.	To transfer operating rights, freight line, Calipatria-Calexico.	Granted	June 14, 1921
9087	C1420	Pickwick Stages, H. D.	To operate passenger service between Randsburg and Mojave.	Granted	June 14, 1921
9103	6916	C. W. Curphay, H. E. Hubbard, M. R. Downing.	To increase and decrease fares, North Vallejo-Oakland.	Granted	June 14, 1921
9107	6871	San Francisco-Oakland Terminal Railways.	To operate stage line through Susanville, suburbs and return.	Granted	June 14, 1921
9108	6856	W. H. Anderson.	Former to sell to latter, Los Angeles-Manhattan Beach.	Granted	June 18, 1921
9110	6786	Geo. B. Long.	To discontinue service, Fort Briggs and Cazadero Stage Company.	Granted	June 18, 1921
9114	6900	Frank Edward Ruesseler and H. E. Schuricht.	To operate passenger and freight service, Orleans-Lugford's Ranch.	Granted	June 18, 1921
9115	6909	Siddard and Buchanan.	To operate truck service between Los Angeles and Banning.	Suspended	June 21, 1921
9116	6908	B. P. McConaha.	Pearce to sell to Boutell and Fuqua freight line, L. A. Banning.	Denied	June 21, 1921
9117	6903	Fred D. Pearce.	Authorizing transfer of operative rights, Santa Rosa-Sausalito.	Denied	June 23, 1921
9231	6201	Fred D. Pearce, H. L. Boutell, H. S. Fuqua.	To operate freight service, Alviso-Decoto.	Denied	June 23, 1921
9236	6665	Frank J. McSherry and San Rafael F. and T. Co.	Former to sell to latter.	Granted	June 24, 1921
9136	6453	Bay Cities Transportation Company.	To establish rates, etc., on commodities.	Granted	June 24, 1921
9143	6758	Los Angeles-West Side Transportation Company.	To increase passenger fares, San Francisco-Pescadero.	Granted	June 24, 1921
9147	6399	Red Star Stage Line.	To operate truck line between Santa Barbara and Santa Ynez.	Granted	June 24, 1921
9151	6608	J. L. Edelblute.	To operate freight service, Sacramento-Fairfield.	Denied	June 27, 1921
9160	6547	F. H. Fitzlaff and O. P. Robinson.			

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9160	6913	L. Cornelius and H. J. Hartsell.	Former to sell to latter, freight line, Rivera-Los Angeles.	June 27, 1921	Granted
9162	6927	Joseph James and Tom Boyle.	Former to sell to latter, stage line, Elsinore-Riverside.	June 27, 1921	Granted
9163	6954	J. F. Birch.	To operate passenger and baggage service, Healdsburg-Calistoga.	June 27, 1921	Granted
9164	6926	Martin B. Behrenz.	To transfer certain operative rights, freight, Elk Grove-Sacramento.	June 27, 1921	Granted
9176	6525	Hearn's Auto Truck.	To increase and decrease rates, add to tariffs, establish rules.	June 29, 1921	Granted
	(C)1540	Joe Bozoff vs. Bob Arutoff.	Illegal operation alleged.		Dismissed
9177	6593		To operate truck service, Western Avenue and Los Angeles.	June 29, 1921	Granted
	6613	Bob Arutoff.	To operate milk route truck, Los Angeles, Athens and Rosecrans.	June 29, 1921	Granted
	5326	L. M. Farnham.	To operate under a certain franchise in Kern County.	June 29, 1921	Denied
	5438	L. M. Farnham.	To operate under a certain franchise in Kings County.	June 29, 1921	Denied
9182	5439	L. M. Farnham.	To operate under a certain franchise in Kings County.	June 29, 1921	Denied
9188	6759	G. R. Cleveland and Rice Transportation Co.	Former to sell to latter, truck line, Los Angeles-Santa Monica.	June 30, 1921	Granted
9191	6826	Tarantino Produce Company.	To operate truck, San Mateo, Santa Clara and San Francisco counties.	June 30, 1921	Denied
9193	6722	George B. Childs.	To operate express service between San Francisco and San Jose.	June 30, 1921	Granted
9198	6692	Anheim Transit Company.	To operate passenger service between Anaheim and packing houses.	June 30, 1921	Granted
9199	6693	L. Scatena & Co., and A. Galli Fruit Co.	To operate truck service, San Francisco and Santa Clara, San Mateo Co.	June 30, 1921	Granted
9202	6669	D. A. Lewis.	To operate passenger and express service, Merced Falls-Shelling.	July 2, 1921	Denied
9203	6782	Motor Transit Company.	To re-route stage service between Pomona, Chino and Ontario.	July 11, 1921	Granted
9191	6826	Clair T. Heple and Marguerite Heple.	Former to sell one-half interest to latter, stage, San Jose-Gilroy.	July 11, 1921	Granted
9213	6955	J. H. McKee and J. K. Hawkins.	Former to sell to latter, truck line, Pomona-Los Angeles.	July 11, 1921	Granted
9214	6974	Walter M. Collins.	To change route between Visalia and General Grant Park.	July 11, 1921	Granted
9215	6987	Darwin & Olancha Stage.	To operate passenger, freight, express, baggage service, Olancha-Darwin.	July 11, 1921	Granted
9218	6896	Lee B. Hawkins.	To operate milk truck between Los Angeles and Ukiah.	July 11, 1921	Denied
9219	6646	F. M. Todd.	To operate freight service between Alviso and Hollister.	July 12, 1921	Granted
9223	6201	Henry Hanson and A. H. Marx.	Former to sell to latter, truck line, San Francisco-San Rafael.	July 12, 1921	Granted
9225	6971	William Gimiani.	Petition for rehearing.	July 12, 1921	Denied
9228	6518		To transport cream between Kelseyville and Lakeport.	July 12, 1921	Granted
	6763	Arthur J. Gunn.	Former to sell to latter stage line, Lakeport and Upper Lake.	July 12, 1921	Granted
9230	6802	Fred Fisher and Lake Co. Auto Trans. Company.	To operate passenger service between Kelseyville and Lakeport.	July 12, 1921	Granted
	6816	Lake County Automobile Transportation Co.	Former to sell to latter stage line, Lakeport and Upper Lake.	July 12, 1921	Granted
	6828	Lake County Automobile Transportation Co.	To change stage route.	July 12, 1921	Granted
9234	6991	E. W. Murphy and A. Harnduin.	To operate passenger service, Hopland-Kelseyville, during resort time.	July 12, 1921	Granted
9235	6246	R. P. McGarvin and A. F. Sparks.	Former to sell to latter, milk service.	July 12, 1921	Granted
	6349	O. B. Gofelle.	To operate passenger service, Ramona-Del Mar.	July 12, 1921	Granted
9236	6735	Chas. W. Fulton.	To operate passenger and freight service, Minden, Nev., Mono Lake.	July 13, 1921	Denied
9249	6908	Bonham Cudim, H. Al Lavezzi, E. P. Tallon.	To operate passenger and freight service, Bridgeport-Mono Lake.	July 13, 1921	Granted
9250	7002	Western Motor Transfer Company.	To discontinue local stage service, Richmond-Albany.	July 13, 1921	Granted
9256	6850	Piekwik Stages, Inc.	To operate passenger service, Escondido-San Diego.	July 21, 1921	Granted
9259	6949	A. L. Parker and Olson & Word.	Former to sell to partners, stage line, Portola-Nevada state line.	July 23, 1921	Granted
9261	6946	Riverdale Creamery Company.	To operate freight service, San Francisco-Santa Clara County.	July 23, 1921	Granted
9267	7035	Edward Egan and Walter Manthly.	To operate passenger service, San Bernardino-Arrowhead Hospital.	July 26, 1921	Granted
9277	6785	Calaveras Freight Transportation Company.	To operate milk, egg and freight service, Stockton-San Andreas.	July 27, 1921	Denied
9278	6831	H. E. Wilkinson.	To operate freight and express service, Los Angeles-Saugus.	July 27, 1921	Granted
9281	7043	Edward Locke Paddon.	Former to sell to latter one-half interest, stage, Yreka-Fort Jones.	July 28, 1921	Granted
9286	6965	William C. Peters and G. A. Reichman.	To operate freight truck, Marion via Universal City and Reseda Ave.	July 30, 1921	Granted
9303	6961	I. L. Hamilton.	Former to sell to latter, truck line, L. A.-Owensmouth.	July 30, 1921	Granted
9307	6908	B. P. McConaha.	Applicant requests cancellation order, Decision No. 9117.	Aug. 1, 1921	Granted

TABLE B. Auto Stage Applications—Continued.

Dec. No.	Applica- tion No.	Applicant	Nature of proceeding	Action	Date
9308	7057	James Johnston Thornton and Louis Hansen	Former to sell to latter truck line, Potter Valley-Ukiah	Granted	Aug. 4, 1921
9309	7050	Claude Flack and T. I. Buie	Former to sell to latter truck line, Bellflower-Los Angeles	Granted	Aug. 4, 1921
9311	6844	Star Auto Stage	To adjust fares, Sacramento-Stockton-Merced-San Jose-Oakland	Granted	Aug. 4, 1921
9313	6781	Meiklejohn's Delivery	To operate delivery route, Los Angeles-Glendale	Granted	Aug. 5, 1921
9314	6723	Midway Supply Company	To operate freight service, Ludlow-L.A., Ludlow-Barstow	Granted	Aug. 5, 1921
9315	7042	Thurio T. Davis (Alhambra Auto Taxi)	To operate stage line, Alhambra-Monterey Park	Granted	Aug. 5, 1921
9316	6901	James I. Moore, Jr., and Wiley J. Gibson	Former to sell to latter one-half interest, truck, El Centro-Holtville	Granted	Aug. 5, 1921
9320	6921	B. L. Halverson	To operate passenger and express service, Turlock-Waterford	Denied	Aug. 5, 1921
9321	6893	C. N. Gaylord and A. W. Clark	To operate freight service between La Grange and Don Pedro Dam	Granted	Aug. 5, 1921
9329	7060	V. E. Lloyd and J. Jaqua	Former to sell to latter one-half interest stage line, truck line	Granted	Aug. 5, 1921
9332	6872	C. A. Richardson and Vreeland & Everts	Former to transfer to partners one-fourth interest, truck line	Granted	Aug. 8, 1921
9336	7063	Mrs. C. W. Mings and Zadikian & Avorian	To sell milk route, Chino, El Monte, Los Angeles	Granted	Aug. 8, 1921
9337	7062	Harry A. Wilson and Webb, Hendricks, Hamilton	Co-partners to purchase of Wilson, stage line, Pasadena-Ocean Park	Granted	Aug. 9, 1921
9342	5413	A. C. Bisher	To operate freight service between Ramona and Escondido	Denied	Aug. 10, 1921
9343	6928	Maurice and Carpenter	To operate passenger service between Redondo Beach and Inglewood	Denied	Aug. 10, 1921
9376	6999	A. L. Parker and Manford Clsen and Faword	Setting aside Decision No. 9259 authorizing transfer	Denied	Aug. 18, 1921
9377	6958	F. J. Roberti	To operate passenger service between Portola and Nevada state line	Granted	Aug. 18, 1921
9378	7082	Fotsch & Riner and F. G. Matthiessen	Former to sell to latter freight line, Los Angeles-S. Fernando	Granted	Aug. 18, 1921
9379	7085	O. L. Swett and C. D. Rasmussen	Former to sell to latter freight line, Oakland-San Jose	Granted	Aug. 18, 1921
9388	5921	Ralph Atkinson	To operate stage line between Santa Monica and Long Beach	Denied	Aug. 19, 1921
	6611	E. B. and H. L. Dillingham	To operate stage line between Santa Monica and Long Beach	Denied	Aug. 19, 1921
	6625	Tate G. Tulles	To operate stage line between Venice and Long Beach	Denied	Aug. 19, 1921
	6655	Walter Geslin	To operate bus or stage service between Venice and Long Beach	Denied	Aug. 19, 1921
	6830	Compton Transportation Company	Transfer of operative rights between Santa Monica and Long Beach	Granted	Aug. 19, 1921
	6881	Ralph Atkinson	Former to sell to latter stage line, Redondo-San Pedro	Granted	Aug. 19, 1921
	7018	Walter Geslin and J. A. Smith	To lease operative right, auto stages, Oakland-San Jose	Granted	Aug. 23, 1921
	7099	Fred V. Fish and Louis Layko	To extend stage service, Cucamonga, Sta.-two miles east of Colton	Granted	Aug. 23, 1921
	9395	Motor Transit Company	To discontinue service, Bakersfield-Camp in Kern River Canyon	Granted	Aug. 23, 1921
	9398	L. A. Misener	Former to sell to latter stage line, Pasadena and Pomona	Granted	Aug. 23, 1921
9399	7107	W. G. James	To operate passenger and express service, Escondido-Los Angeles	Granted	Aug. 24, 1921
	7103	Charles R. Lusby and J. H. Lord	To operate freight and express service, Oceanside-Oakland	Denied	Aug. 25, 1921
	6793	William Gimiani	In re operation freight service, Sebastopol-Oakland	Denied	Aug. 25, 1921
	6691	Ralph C. Walker	Former to sell to latter stage line, Kelseyville-Lakeport	Granted	Aug. 26, 1921
	6706	Coast Truck Line	Long to sell to partners stage line, Doyle-Susanville	Granted	Aug. 26, 1921
	C1583	Hugh A. Hugh Allen Boyle, James I. Ryan	Transfer freight line, El Centro-San Diego	Granted	Aug. 30, 1921
	9420	Arthur J. Gunn and H. W. Gribayedoff	To operate stage line between Eadsville and Cedarville	Granted	Aug. 31, 1921
	9423	Geo. B. Long and Smith & Ramsey	Former to sell to partners milk truck line, Hynes-Los Angeles	Granted	Aug. 31, 1921
	7123	Vreeland and Everts, Thes. M. and Maude M. Turner			
	6690	Warren Slinkard			
9446	7125	Willis W. Ingraham and Bozoff & Tarvoff			

9449	6787	Walter Kiehlofer	To operate truck milk route, Lancaster-Los Angeles	Aug. 31, 1921	Granted
9451	7132	Otto F. Martin	To operate truck milk route, Lancaster-Los Angeles	Aug. 31, 1921	Denied
9459	6791	J. F. Birch	To abandon passenger and baggage service, Headlandsburg-Calistoga	Aug. 31, 1921	Granted
9461	6381	United Stages, Inc.	To establish on the day's notice increases and reduction in fares	Sept. 3, 1921	Granted
9463	6673	G. C. Scribner	To operate freight and express service, Fresno-Visalia	Sept. 3, 1921	Granted
9473	4767	H. Frasher	To operate truck line between Fresno and Tulare	Sept. 3, 1921	Granted
9475	6483	Pickwick Stages, S. D.	Supplemental order on rehearing amending previous decision	Sept. 7, 1921	Granted
9476	6181	B. S. Greene and F. R. Greene	To operate freight and express service between S. F. and San Pedro	Sept. 7, 1921	Granted
9477	6481	B. S. Greene and Harper and Duncan	Setting aside first supplemental order and approving transfer	Sept. 7, 1921	Granted
9479	7121	United Stages, Inc., and Harry M. Hunt	To lease operative rights between Santa Paula and Oxnard	Sept. 8, 1921	Granted
9480	7109	Light and Wixon and H. W. and V. Lambert	To transfer stage line, Turlock-Modesto, Turlock-Newman	Sept. 8, 1921	Granted
9484	6836	George S. Jones	To operate passenger service, Petaluma, Sonoma and Ignacio	Sept. 8, 1921	Granted
9487	7159	Mrs. H. A. Varro, E. B. and H. L. Dillingham	To transfer of operative rights passenger line, Pasadena-Long Beach	Sept. 8, 1921	Granted
9489	6858	Kiso Yasunaga	To issue capital stock	Sept. 12, 1921	Granted
9490	6774	Const Truck Line	To operate motor and produce service, San Jose-Oakland	Sept. 12, 1921	Granted
9492	6670	C. L. Fortier and Sons	To operate motor freight line between Reedley and Fresno	Sept. 12, 1921	Granted
9493	6815	J. H. Dodge	To operate passenger and express service, Visalia-Lemon Cove	Sept. 12, 1921	Granted
9494	6537	B. & H. Transportation Company	To operate passenger service in Long Beach, supplemental order	Sept. 12, 1921	Denied
9497	6721	Webb Pineco	To operate passenger and express service, Fresno-Orange Cove	Sept. 15, 1921	Granted
9498	7158	James R. Morgan and F. E. and M. E. Penhall	Transfer of milk truck line, L. A. Westminster, Winterburg, Talbert	Sept. 15, 1921	Granted
9507	7067	Walling & Alexander and Valley Transit Co.	Transfer of stage line between Susanville-Oregon-California line	Sept. 12, 1921	Granted
9508	7090	Fresno-Kingsburg Stage Co. and Valley Transit Co.	Transfer of stage line between Fresno, Madera, Merced, etc.	Sept. 14, 1921	Granted
9509	6988	H. H. Davis and V. L. Haynes	Former to sell to latter one-half interest stage, Fresno-Hanford	Sept. 14, 1921	Denied
9512	7052	Andrew Christensen	To operate passenger service, Yreka-Ashland, Ore.	Sept. 14, 1921	Denied
9519	7171	Henry Harper	To operate stage line, Santa Maria, Betteravia, Guadalupe	Sept. 14, 1921	Denied
9520	7171	F. R. Cooley and C. T. Cooley	Former to sell to latter one-half interest stage, Taft-Maricopa	Sept. 15, 1921	Granted
9522	7175	Ralph M. Follows	To operate stage line, Azusa-San Gabriel Canyon	Sept. 15, 1921	Granted
9525	7179	Boutell and Follins, Fletcher and Tremble	To lease for 90 days operative rights and equipment	Sept. 15, 1921	Granted
9526	6779	C. Beatty and T. Williams	To operate passenger and freight service, Ibis-Tristate	Sept. 15, 1921	Granted
9531	6860	T. A. Wagon, Miles Hunt and R. M. LeBaron	To operate freight line, Fresno-Indian Mission	Sept. 19, 1921	Granted
9536	6958	H. A. Webb	To operate passenger service between Mojave and Lone Pine	Sept. 19, 1921	Denied
9537	6932	Frank C. Lloyd	To operate freight service between Orcutt and Casimolia	Sept. 22, 1921	Granted
9548	6907	P. Lockhart	To operate stage line between Susanville and Redding	Sept. 22, 1921	Granted
9549	6936	J. T. B. Davis and J. A. Robinson	To operate stage line between Sisson and Redding	Sept. 23, 1921	Granted
9550	6733	W. F. Drew	To operate stage line between Blaisden and Camp Elwell	Sept. 23, 1921	Granted
9552	7081	M. E. Payton	To operate freight service between L. A., Cinco and Bishop	Sept. 23, 1921	Granted
9559	7177	S. B. Cowan	To operate stage line, McKinnies-Rubicon Springs	Sept. 23, 1921	Granted
9563	4013	C. R. Spickard and G. A. Colwell	Former to sell to latter, Kernville-Bakersfield	Sept. 27, 1921	Granted
9572	7192	J. R. Bechtel	Former to sell to latter, Bakersfield-Lost Hills	Sept. 27, 1921	Granted
9573	7191	E. C. Jewett and John Chieca	Former to sell to latter, truck line, Mission Acres-Los Angeles	Sept. 28, 1921	Granted
9574	7195	E. Paggi and H. J. Hartsell	Amending certificate granted under Decision 9520	Sept. 28, 1921	Granted
9576	7170	Ralph M. Follows	Former to sell to latter one-half interest	Sept. 30, 1921	Granted
9580	7196	Nelson Brown and Harry D. Riley	Former to sell to latter stage line, Sausalito-Bolinas	Sept. 30, 1921	Granted
9581	7205	E. A. Langford and W. H. Calloft	To lease operative rights	Oct. 3, 1921	Granted
9582	7226	M. R. Downing and Culphey Truck Line	Former to sell to latter and latter to issue stock	Oct. 3, 1921	Granted
9588	7386	K. F. Beyerle and Murietta Mineral Springs	To operate stage line between Fairfax and Pt. Reyes	Oct. 4, 1921	Denied
9589		Wm. F. Hoepner and E. Serretto			

TABLE B. Auto Stage Applications—Continued.

Dec. No.	Applica- tion No.	Applicant	Nature of proceeding	Action	Date
9596	7211	J. Y. Scott and Ross Forsyth	Former to sell to latter one-half interest in stage line	Granted	Oct. 6, 1921
9597	7223	L. E. McPherson and Natalie Bacci	Former to sell to latter freight line, Cloverdale-The Geysers	Granted	Oct. 6, 1921
9610	7232	S. H. Dunbar and B. A. Perry	To lease operative right, auto stages, Oakland-San Jose	Granted	Oct. 17, 1921
9618	7241	R. W. Gribovloff and R. D. Rosenberg	Former to sell to latter stage line, Kelseyville-Lakeport	Granted	Oct. 17, 1921
9628	7137	Henry Mangold	To operate stage line between Sausal and Los Angeles	Granted	Oct. 21, 1921
9631	7150	John Yano	To operate stage line between Auburn and Truckee	Denied	Oct. 21, 1921
9635	6801	Peckard Stage Line	To operate stage line between Los Angeles and Bakersfield	Granted	Oct. 26, 1921
9639	6824	Motor Transit Company	To operate stage line between Lancaster and Bakersfield	Granted	Oct. 26, 1921
9643	7257	Arthur E. Miller	To operate freight, express and baggage service, Sacramento-Calt	Granted	Oct. 26, 1921
9644	7267	M. C. W. Mungus and H. E. Shralner	Former to sell to latter truck line, Los Angeles-Tropic	Granted	Oct. 26, 1921
9645	7270	M. R. Payton	To change route stage line, Los Angeles-Imperial Valley	Denied	Oct. 26, 1921
9648	6944	United Stages, Inc.	To operate stage line, Los Angeles-Bishop	Granted	Oct. 26, 1921
9648	6918	W. S. Brunner	To operate stage line, Quincy and Portola	Granted	Oct. 26, 1921
9649	6938	F. Hanchett and N. Locicero	To establish fares, application for rehearing	Denied	Oct. 26, 1921
9650	7268	Wm. Ginninham	To operate stage line, Bakersfield-Arven Store, changing route	Granted	Oct. 26, 1921
9653	6862	A. Dunham	To operate stage line, San Francisco-Sacramento	Denied	Oct. 28, 1921
9658	7163	Tidwell Truck Line	To operate freight and express service, Loyalton-Nevada-California	Granted	Oct. 28, 1921
9659	6712	G. H. Blount	To operate stage line, Stevinson and Newman	Denied	Oct. 28, 1921
9672	4650	John R. Gay	To operate passenger service, Minden, Nev., and Bridgeport, Cal.	Granted	Oct. 28, 1921
9673	7110	Anderson Bros.	To operate freight service, Lemore-Delano	Denied	Oct. 29, 1921
9678	7156	O. B. Gefeke	To operate passenger and express service, San Diego-Lakeside	Granted	Oct. 29, 1921
9686	7188	Hodge, Mershon and Rose	To operate freight and express service, San Diego-Coronado	Granted	Oct. 29, 1921
9687	7097	Bert Simmons and Olin C. Simmons	To operate freight service, Twin Oaks-Bernardo	Granted	Oct. 31, 1921
9689	7080	M. C. Stokes	To operate freight service, Calexico-Los Angeles	Denied	Nov. 4, 1921
9689	7136	Wm. F. Boehert	To operate mail stage line, Corona and Porterville	Granted	Nov. 4, 1921
9693	7149	C. E. Boyle and H. B. Boyle	Partners to sell milk route, Chino-Los Angeles	Granted	Nov. 4, 1921
4696	7249	J. H. Eastman	To operate freight service, Elizabeth Lake-Los Angeles	Granted	Nov. 8, 1921
9697	7153	N. C. Green	To operate stage line between Doyle and Susanville Park	Granted	Nov. 8, 1921
9699	6741	W. M. Collins	To abandon passenger service between Corcoran and Tulare	Granted	Nov. 10, 1921
9712	7213	Zadikian and Avoian and George Abajian	To operate freight service, Los Angeles-Corona	Denied	Nov. 10, 1921
9727	6684	W. L. Gray	To operate stage service between Oakland and Livermore	Denied	Nov. 10, 1921
9735	7032	James B. Stinson	To operate freight service, San Francisco, Oakland, Berkeley	Granted	Nov. 10, 1921
9737	7190	Smith and Ransey	To operate freight service, Calexico-Los Angeles	Denied	Nov. 10, 1921
9738	7298	C. J. Graham	To operate stage line, Ft. Reyes Station and Inverness	Denied	Nov. 10, 1921
9746	7183	Roy T. Ames and W. G. Leonard	Former to sell to latter stage line, Riverside-Banning	Granted	Nov. 10, 1921
	7296	K. F. Beyerle	To resume truck service, Los Angeles-Mecca re-establish tariff	Granted	Nov. 10, 1921
9750	6111	Harry Gaeta			
9751	7288	Morris Draying Company			
9752	7114	A. H. Wetzel and J. H. Eastman			
9754	7193	John L. Alberigi			
9755	7322	W. J. McKinley and United Stages, Inc.			
9756	7175	H. L. Boutell and H. S. Fuqua			

9757	7280	T. Landi Draying Company	To operate freight service, perishable, Oakland-San Francisco.	Nov. 10, 1921	Granted
9758	6733	W. F. Drew	To operate stage line, Blaisden and Camp Elwell, amending certificate	Nov. 10, 1921	Granted
9761	7342	E. J. Roberti	To sell to M. M. Olson and F. G. Wort, stage line	Nov. 17, 1921	Granted
9767	7344	Wm. Allen and Elmer E. Bush	Former to sell to latter stage line, Santa Maria-Orutt.	Nov. 17, 1921	Granted
9770	7250	H. K. Anderson and Jos. K. Hawkins	Former to sell to latter truck line, Chino, Pomona, Los Angeles	Nov. 17, 1921	Granted
9790	7194	A. B. Murphy	To operate passenger service, Los Angeles county	Nov. 23, 1921	Granted
9791	7242	Service Motor Transportation Company	To operate freight truck service, San Jose-Santa Cruz	Nov. 23, 1921	Denied
9792	7143	Coastside Transportation Company	To change portion of passenger service, Fresno, Frant, dam site.	Nov. 23, 1921	Granted
9793	7104	John O. Ziegler and Howard Tripp	To operate freight and express service, Fresno, Frant, dam site.	Nov. 23, 1921	Granted
9794	7072	D. C. Sullivan	To operate passenger, express, baggage and package service.	Nov. 23, 1921	Denied
9796	6907	E. C. Craig	To operate baggage, express and package service.	Nov. 23, 1921	Denied
	7001	Pickwick Sales, Nor. Div., Inc.	Suspension of service by E. C. Craig, portion of route.	Nov. 23, 1921	Granted
	C1666	Twin City Bus Association	To extend passenger service, Redondo and Hermosa Beaches.	Nov. 23, 1921	Denied
9798	7161	D. B. Maurice	Former to sell to latter stage line, Fresno-Lemoore.	Nov. 23, 1921	Granted
9799	7347	A. B. Crabb and Frank Robinson	Former to sell to latter stage line, Kingsburg-Fresno.	Nov. 23, 1921	Granted
9800	7347	H. H. Nutting and A. A. Crabb	Former to sell to latter, milk route, Los Angeles-Rivera.	Nov. 23, 1921	Denied
9802	7351	H. J. Harsell and Jennie A. Wells	To operate stage line, Madera-Frant.	Nov. 23, 1921	Denied
9804	7121	Berschell, Gordon	Former to sell to latter stage line, Palm Springs-Whitewater Station	Nov. 23, 1921	Granted
9807	7225	Pioneer Express	To operate freight service, San Francisco-Santa Cruz	Nov. 23, 1921	Denied
9808	7227	C. E. Bunker, Jr., and James A. Gray	To operate freight service, San Francisco-Santa Cruz	Nov. 23, 1921	Denied
9813	7318	Herman Johnson	Petition of defendants for rehearing	Nov. 26, 1921	Denied
9816	C1442	A. B. Watson vs. White Bus Line	To operate stage line, Compton-Los Angeles	Nov. 26, 1921	Denied
9817	7256	L. A. Standler and E. Pendleton	To operate freight and produce service, San Jose-Oakland.	Nov. 26, 1921	Denied
9819	7254	H. A. Boulton	To operate through stage service, Willitt-Santa Rosa	Nov. 26, 1921	Denied
9820	7238	L. G. Marshall and I. Richardson	To operate milk route, Sacramento-Plymouth	Nov. 26, 1921	Denied
9832	7203	Garcia and Santos	To operate stage line, Lancaster-Randsburg	Dec. 3, 1921	Denied
9833	7206	Talbot and Seely	To operate stage line, Lancaster-Randsburg	Dec. 3, 1921	Denied
9847	7295	Otto F. Martin	To operate freight, baggage, general hauling, Los Angeles-Santa Monica	Dec. 3, 1921	Denied
9848	7303	David R. Lerette	To operate stage line, Sausalito-Napa	Dec. 8, 1921	Denied
9853	7237	Watson Transportation Company	To operate stage line, San Francisco-Los Angeles	Dec. 8, 1921	Denied
9857	7331	A. Dunham	To operate stage line, San Francisco-Los Angeles	Dec. 10, 1921	Denied
	7233	Thomas H. Brooke	To operate stage line, San Francisco-Los Angeles	Dec. 14, 1921	Denied
	7243	Morris L. Handshuth	To operate stage line, San Francisco-Los Angeles	Dec. 14, 1921	Denied
9865	7278	Thomas Stephens and John Todhunter	To operate stage line, Quincy-Portola, petition for rehearing	Dec. 14, 1921	Denied
	6944	W. S. Brunner	To operate stage line, Quincy-Crescent Mills, for rehearing	Dec. 14, 1921	Denied
	6918	W. S. Brunner	To operate express and baggage service, Glendale-Los Angeles	Dec. 16, 1921	Denied
9871	7012	Glendale Rapid Transit Company	To operate stage line, Fresno-Prescott's Mill	Dec. 16, 1921	Denied
9884	7319	Victor Ryming	Former to sell to latter stage line, Huntington Park, Bell, Cudahy	Dec. 20, 1921	Granted
9889	7319	Chas. B. Holbrook and Vernon H. Shuler	To abandon stage service, Downey, Norwalk, Norwalk State Hospital.	Dec. 20, 1921	Granted
9898	7404	Motor Transit Company	Amending Decision 9799 in re lease of vehicle	Dec. 20, 1921	Granted
9901	7320	A. A. Crabb and Frank Robinson	To operate freight service, Oakland-Newman	Dec. 23, 1921	Denied
9902	7348	Victor F. Handkerkin and Clinton Landis	To operate stage line, Imperial Beach-San Diego	Dec. 23, 1921	Denied
9912	7120	R. R. McCutcheon and George Chappell	To increase rates, Los Angeles-San Fernando	Dec. 23, 1921	Denied
9917	7274	George J. Nixon	To operate freight service, Shafter-Bakersfield	Dec. 23, 1921	Granted
9918	7315	Original Stage Line	To operate stage service	Dec. 23, 1921	Granted
9919	6906	Mrs. F. C. Williams	To operate stage line, Franklin-Walnut Grove	Dec. 23, 1921	Granted
9921	7258	California Transit Company		Dec. 23, 1921	Granted
9922	6969	River Auto Stage		Dec. 23, 1921	Granted

TABLE B. Auto Stage Applications—Continued.

Dec. No.	Applica- tion No.	Applicant	Nature of proceeding	Action	Date
9944	7427	Julia Latty and Charles E. Smith.	Former to sell to latter, Truckee-Sierraville.	Granted	Dec. 29, 1921
9952	7335	James W. Young and Earl R. Gold.	To operate stage line between Sausalito and Calistoga.	Denied	Dec. 30, 1921
9970	7216	D. Moyers.	To operate stage line between Los Banos and Merced.	Granted	Jan. 6, 1922
9979	7458	Harland O. Martin.	To operate stage line, Merriam and Swayne's Logging Camp.	Granted	Jan. 9, 1922
9984	7463	Wheeler Bros.	To sell stage line between Sanitarium and St. Helena.	Granted	Jan. 12, 1922
9992	7399	John O. Ziegler and H. M. Tripp.	To operate stage line, Fresno-Sugar Pine Lumber Co. mill site.	Denied	Jan. 17, 1922
9996	7239	Loren G. Fisher.	To operate stage line, San Francisco-Los Angeles.	Denied	Jan. 17, 1922
9998	7397	Joseph Miller.	To discontinue service, Starford-Lemoore.	Granted	Jan. 17, 1922
10018	7280	Thomas Richards (Motor Express)	To establish uniform classification freight rate.	Granted	Jan. 30, 1922
10021	7390	Charles B. Smith.	To operate stage line between Porterville and Camp Nelson.	Granted	Jan. 30, 1922
10022	7309	G. B. Thompson and H. Frasher.	To operate freight service, Turlock-Stockton.	Granted	Jan. 30, 1922
10023	7219	J. R. Cleaveland.	To operate stage line between Los Banos and Gilroy.	Denied	Jan. 30, 1922
10025	7371	C. W. Hayes.	To operate freight service between Fresno and Los Angeles.	Granted	Jan. 30, 1922
10026	6936	J. T. B. Davis and J. A. Robinson.	Supplemental order cancelling certificate, stage line.	Denied	Jan. 30, 1922
10033	7355	Thomas Richards.	To sell auto truck lines to Richards Trucking and Warehouse Company.	Granted	Jan. 30, 1922
10035	7346	Richards Trucking and Warehouse Company.	To issue stock to known individuals and not to the public.	Granted	Jan. 30, 1922
10043	7374	R. E. Robson.	To operate freight milk service, Dominguez Jet--Los Angeles.	Granted	Jan. 30, 1922
10044	7486	Coast Truck Line.	To operate freight service, San Diego-Los Angeles.	Denied	Jan. 30, 1922
10045	6892	H. R. Brown.	To operate stage line between Sacramento and Tallac.	Denied	Feb. 2, 1922
10050	7417	Louis E. Smith and F. W. Ramsey.	To operate stage line between Monterey and Pacific Grove.	Granted	Feb. 2, 1922
10065	7468	Paul Gatto.	To operate stage line between Engel's Mine and Susanville.	Granted	Feb. 2, 1922
10068	7416	Walton Krehler.	To operate contract motor service, Half Moon Bay-San Francisco.	Granted	Feb. 8, 1922
10075	C1570	C. W. Curphy.	To operate freight service between Pedro Valley and San Francisco.	Granted	Feb. 8, 1922
10076	7325	H. E. Wilkinson and Henry Denning.	To sell to Duncan and Sullivan, truck line, Los Angeles-Lancaster.	Granted	Feb. 8, 1922
10078	7536	E. W. Spagnoli and Wm. V. Hogan.	Fisher and Cassati to cease operations, Calexico-El Centro.	Granted	Feb. 8, 1922
10079	7507	E. C. Craig.	Former to sell to latter truck line, Saugus-Los Angeles.	Granted	Feb. 8, 1922
10080	7508	The Pkewick Stages, N. D., Inc.	To discontinue service.	Granted	Feb. 8, 1922
10088	7492	N. F. Gardner.	To operate stage service, Solvang-Santa Ynez.	Granted	Feb. 8, 1922
10104	7567	Curphy Truck Line.	To operate stage line, Monticello-Walters Springs.	Granted	Feb. 8, 1922
10105	5169	Otis A. Moore and Cecil E. Snyder.	To cease operating truck line, M. R. Downing to resume same.	Granted	Feb. 15, 1922
10110	7281	Curtis B. Locklin.	Former to sell to latter truck line milk, Los Angeles.	Granted	Feb. 17, 1922
10119	7502	Mrs. C. W. Mungus.	Supplemental order revoking operative right, freight line.	Granted	Feb. 17, 1922
10120	7423	Ross Hollingberry.	To extend service to include Davis.	Denied	Feb. 17, 1922
10121	7470	N. A. Webb and F. S. Hendricks.	To operate freight truck milk route, Los Angeles County.	Granted	Feb. 24, 1922
10126	7456	Graham Transportation Company.	To operate freight service between Pasadena and Mt. Wilson.	Granted	Feb. 24, 1922
10127	7408	James F. Nutty and Claude E. Tolson.	To operate package or express service, Los Angeles-Mt. Wilson.	Granted	Feb. 24, 1922
10128	7460	John Clifton Thomas.	Former to sell to latter freight line, Los Angeles-Huntington Beach.	Granted	Feb. 27, 1922
10129	7475	George A. Abajian.	To operate stage line, Redlands-Mentone.	Granted	Feb. 27, 1922
			To sell one-half interest, milk route, Los Angeles-El Monte.	Granted	Feb. 27, 1922

CALIFORNIA RAILROAD COMMISSION DECISIONS.

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10130	7334	F. L. McCauley	To operate stage line between Los Angeles and Victorville.	Feb. 27, 1922
10132	7504	A. J. Richardson	To operate stage line between Sunland and San Fernando.	Feb. 27, 1922
10133	7420	F. A. Ruple and R. D. Brown	Former to sell to latter, stage line, Auburn-Forrest Hill.	Feb. 27, 1922
10134	7421	F. A. Ruple and M. C. Langstaff	Former to sell to latter, stage line, Colfax-Michigan Bluff.	Feb. 27, 1922
10135	7459	V. M. Freeman	To operate freight service, Mojave-Los Angeles.	Feb. 27, 1922
10136	7405	D. B. Maurice	To extend passenger service between Inglewood and Hermosa Beach.	Feb. 27, 1922
	C1689	Rice Transportation Company	To revoke permission granted C. T. Boyd to operate, Los Angeles-Santa Monica.	Feb. 27, 1922
10137	7590	John Nelson et al.	To approve certain agreements to transfer operative rights.	Feb. 27, 1922
10139	7537	A. W. Burnham and Joseph Barre	Former to sell to latter, milk truck line, Manteca-Oakland.	Feb. 27, 1922
10140	C1420	Pickwick Stages, N. D. Inc.	To modify order in Decision No. 8298.	Mar. 6, 1922
10141	7435	Thos. M. and Maud M. Turner	To sell to William E. Smith, truck service, San Diego-El Centro.	Mar. 6, 1922
10142	C1688	P. Cochran	Alleging illegal operation truck service by Philip Wampler.	Mar. 6, 1922
10143	7453	G. W. Stout and V. E. Peet	To operate stage line, Dinuba-Hanford.	Mar. 7, 1922
10145	7566	John Chien and Felice Gaspari	Former to sell to latter, stage line, Bakersfield-Lost Hills.	Mar. 7, 1922
10161	7618	W. C. Lawrence	To operate additional service, Crescent Mills-Prattville.	Mar. 7, 1922
10163	7392	Elmer F. Bush and H. A. Webb	Former to sell to latter, express line, Santa Maria-Oreutt.	Mar. 7, 1922
10164	7617	W. C. Lawrence	To operate stage line, Crescent Mills-Chester.	Mar. 7, 1922
10165	7467	Red Line Express and Transfer Company	To operate stage line, Richmond-Albany.	Mar. 11, 1922
10176	7617	Gustav Eppson	To operate stage line, Richmond-Albany.	Mar. 11, 1922
	4778	Rudolph Barden	Former to sell to latter, stage line, Stockton-Bryon.	Mar. 11, 1922
10182	7122	C. D. Cullick and California Transit Company	To operate express and freight extension, McKinnick-San Francisco.	Mar. 11, 1922
10183	6811	Frank W. Bonfield	To operate parcel delivery service, Los Angeles-Duarte.	Mar. 21, 1922
10210	7538	Joe Brown	To operate freight service, Stockton-Gutline.	Mar. 21, 1922
10211	7474	Ben Baird	To operate stage line, Big Basin-Santa Cruz.	Mar. 21, 1922
10213	7262	H. A. Griggs	Former to sell to latter, stage line, Bakersfield-Taft.	Mar. 21, 1922
10214	7424	Elmer Kitchen and W. S. Boyd and C. Ingals	To sell stage line, Fresno-Gilroy, to a co-partnership.	Mar. 27, 1922
10217	7563	H. W. Moore, S. E. Latta, O. W. Peterson	Former to sell to latter, stage line, Stockton-Oakdale.	Mar. 27, 1922
10218	7601	A. S. Longacre	To sell to Valley Transit Co., Inc., stage line, Fresno-Kingsburg.	Mar. 27, 1922
10226	7641	A. S. Grabb, E. C. Morgan and Ernest Crabb	To operate stage line, Quincy-Meadow alley.	Mar. 27, 1922
10227	7600	T. B. Bennett	To operate stage line, Los Angeles-San Francisco.	Mar. 27, 1922
10228	7655	C. F. Larson	To transfer operative rights of San Gabriel Valley Transfer.	Mar. 27, 1922
10229	7526	W. F. Allen and Son	To operate truck service, Los Angeles-San Jose.	Mar. 27, 1922
10230	7497	Viola Powell	Former to sell to latter transportation line, Van Nuys-Los Angeles.	Mar. 27, 1922
10231	7393	Witaya Truck Company	Former to sell to latter truck line, Los Angeles-Glendale.	Mar. 27, 1922
10240	7378	William F. Cokely	Former to lease to latter stage line, Chico-Hamilton City.	Mar. 27, 1922
10247	7378	Victor F. Hankerkin and Clinton Landis	Former to sell to latter stage line, Kernville-Bakersfield.	Mar. 27, 1922
10248	7373	J. J. Hartsell and F. E. Smith	To extend passenger line to the end of Ice House Canyon Road.	Mar. 29, 1922
10255	7669	J. S. Meiklejohn and J. E. Casey	Former to sell to latter stage line, Modesto-Oakland.	Mar. 29, 1922
10257	7666	Mrs. W. E. Tibbets and W. A. Fugitt	To operate freight service, Modesto-Butte City.	Mar. 29, 1922
10259	7653	Santa Antonio Transfer Company	Supplemental order authorizing commencement operation stage line.	Mar. 29, 1922
10260	7661	M. D. Savage and L. Rottanz	To operate fruit and produce express, East San Jose-Oakland.	Mar. 29, 1922
10261	7661	O. H. Harper	To operate freight service, Santa Cruz-Oakland.	Mar. 29, 1922
10273	7444	Lemuel Eugene Schneider	Denied	Apr. 5, 1922
10276	7400	H. A. Cross	Denied	Apr. 5, 1922
10277	7520	Garcia and Santos	Denied	Apr. 5, 1922
10280	7263	J. M. Ward	Denied	Apr. 5, 1922
10281	7613		Denied	Apr. 5, 1922
10283	7523		Denied	Feb. 27, 1922

TABLE B. Auto Stage Applications—Continued.

Dec. No.	Applica- tion No.	Applicant	Nature of proceeding	Action	Date
10289	6700	J. D. Maynard	To operate as contract carrier, Gilroy-Oakland, Betabel-San Francisco	Granted	Apr. 6, 1922
10294	7678	Peter J. Alberigi	To operate stage line, Pt. Reyes Station-Pt. Reyes	Granted	Apr. 12, 1922
10306	7721	L. B. O'Rourke	To operate stage line, Blairaden-Johnsville	Granted	Apr. 12, 1922
10307	7722	L. B. O'Rourke	To operate stage line, Quincy-La Porte	Granted	Apr. 12, 1922
10308	7723	W. W. Allen and Joe Olinsky	Former to sell to latter, stage line, Cazadero-Fort Bragg	Granted	Apr. 12, 1922
10309	5317	J. Boshoff	Supplemental order cancelling Decision No. 7333	Granted	Apr. 14, 1922
10321	7625	C. E. Means and G. Lawrence Ritchie	Former to sell to latter, stage line, San Diego-Oak Grove	Granted	Apr. 14, 1922
10322	7625	C. E. Means and G. Lawrence Ritchie	To sell and transfer operative rights	Granted	Apr. 14, 1922
10323	7215	Plasse Brothers	To operate stage line, Jackson-Silver Lake	Denied	Apr. 14, 1922
10328	7693	California Transit Company	To operate stage line, Oakland-Sacramento	Granted	Apr. 17, 1922
10331	7549	F. K. Sakaki	To operate freight service, San Jose-Oakland	Granted	Apr. 18, 1922
10336	7568	F. W. Wales and Son	To operate freight service, Folsom-Sacramento	Granted	Apr. 18, 1922
10337	7637	George H. Petker	To operate truck delivery service, Pismo-Ocean	Granted	Apr. 21, 1922
10339	7989	Earl M. Negley	To operate truck delivery service, San Miguel-Parkfield	Granted	Apr. 21, 1922
10342	7204	Motor Transit Company	To operate stage line, Chino-Corona-White's Point	Granted	Apr. 21, 1922
10346	7540	Fred J. Fujioaka	To operate stage line, Los Angeles-White's Point	Granted	Apr. 21, 1922
10351	7578	A. Harudman	To operate stage line, Santa Monica-Venice	Granted	Apr. 25, 1922
	7648	T. G. Tulos	To operate passenger service, Santa Monica-Venice	Denied	Apr. 25, 1922
10352	7650	Bert E. Hodson	To operate passenger service, Santa Monica-Venice	Denied	Apr. 25, 1922
	7476	Joe Bozoff	To transfer milk route to Mounjan and Los Angeles	Granted	Apr. 25, 1922
10353	7664	W. P. Billingsley	To operate freight service, Placenta and Los Angeles	Granted	Apr. 25, 1922
10366	7775	Fred Vardon and J. P. Hildreth	Former to sell to latter, stage line, Cloverdale-Haldsburg	Granted	Apr. 25, 1922
10367	7772	Alva L. Clement and F. H. Griffin	Approval of agreement to transfer stage line, Salinas-King City	Granted	Apr. 25, 1922
10368	7720	J. C. Best	To operate stage line, Santa Ana-El Modena	Granted	Apr. 25, 1922
10370	7636	J. Jaqua	To sell to Lee and D. R. Jaqua passenger	Granted	Apr. 25, 1922
10373	7727	Felice Gaspari and P. Dal Porto	Former to sell to latter, stage line, Bakersfield-Lost Hills	Granted	Apr. 27, 1922
10374	7733	J. B. Davis and Mrs. N. K. Davis	Former to sell to latter, stage line, Sisson-McCloud	Granted	Apr. 27, 1922
10375	7793	J. W. Bowers and L. H. Newton	Former to sell to latter, stage line, Sisson-McCloud	Granted	Apr. 27, 1922
10376	7787	Wm. Grindle and H. J. Shear	Former to sell to latter stage line, Santa Monica-Los Angeles	Granted	Apr. 27, 1922
10378	7746	Sam Aronson and Joseph Palace	To sell one-half interest to H. E. Boswell, Roseville-Sacramento	Granted	Apr. 29, 1922
10383	7798	J. Y. Scott and Ross Forsyth	To sell an interest in stage line to F. E. S. Kersey	Granted	May 2, 1922
10389	7188	Hodge Mershon and Rose	To operate freight service, Lemoore-Delano	Denied	May 2, 1922
10397	7815	A. E. Campbell	To sell to Monte Willis and J. C. Dikes, truck line, Los Angeles	Granted	May 5, 1922
10419	7802	L. B. Bennett and W. S. Brunner	To consolidate stage line and for co-partnership	Granted	May 5, 1922
10420	7796	Robinson Bros. Transfer and Storage Company	To sell to James Little truck line, Glendale-Los Angeles	Granted	May 5, 1922
10421	7796	E. R. Steele and George F. Hellmuth	Former to sell to latter, stage line, Yreka and Etua Mills	Granted	May 5, 1922
10422	7805	E. R. Steele and George F. Hellmuth	To sell freight line, Long Beach-Los Angeles, to co-partnership	Granted	May 8, 1922
10423	7795	A. M. Myers	To operate stage line, Los Angeles-Bakersfield	Denied	May 8, 1922
10426	6801	Wm. H. Powell et al	To operate stage line, Lancaster-Bakersfield	Denied	May 8, 1922
	6824	Motor Transit Company	To operate freight service, Los Angeles-San Francisco-San Diego	Denied	May 10, 1922
10428	7729	Adams Transfer Storage Company	Former to sell to latter, stage line, Santa Maria-Gundulup	Granted	May 10, 1922
10432	7818	S. Gillespie and A. J. Lester	To operate through stage service, San Francisco-Oakland-Los Angeles	Denied	May 10, 1922
10440	7290	S. F. Oakland-L. A. Transportation Company	Defendant's petition for rehearing	Denied	May 12, 1922
10449	C1640	Harry N. Blair vs. Coast Truck Line, Inc.			

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10451	7557	A. H. Weston	To operate stage line, Woodland to Rumsey	Granted	May 12, 1922
10452	7649	Mrs. Z. F. Tilly	To continue to operate Charters Auto Stage Line	Denied	May 12, 1922
10453	7626	W. M. Huffman	To operate freight service, Oakland-Turlock, petition, rehearing	Denied	May 12, 1922
10454	7536	Hearne's Auto Truck	To extend service, change rates, establish new time table	Granted	May 16, 1922
10455	7730	G. W. and W. H. Sharp	To sell to O. O. Davis freight line, Los Angeles-Anaheim	Granted	May 16, 1922
10456	7679	R. S. Smith	To sell to William Wiegand interest in partnership	Granted	May 17, 1922
10457	7524	Wm. Allen	To operate stage line, Santa Maria-Sisquoc	Granted	May 17, 1922
10458	7841	Malver and Sullivan	To sell to Ernest W. Sullivan freight line, Stockton-Manteca	Granted	May 17, 1922
10459	7836	Walter M. Collins and Joseph Miller	For approval of transfer of operative rights	Granted	May 17, 1922
10460	7858	M. R. Downing, Adm. Estate, C. W. Curphey	To sell to Pioneer Truck and Transfer Company	Granted	May 18, 1922
10461	7303	David R. Lerette	Petition of applicant for rehearing	Denied	May 22, 1922
10462	7867	Trueman E. Rigney	To operate stage line, San Andreas-Valley Springs	Granted	May 24, 1922
10463	7862	H. A. Spreitz	Former to sell to latter, stage line, Santa Rosa-Monte Rio	Granted	May 24, 1922
10464	7888	A. Nicolette and D. S. McCarty	To adjust freight rates, San Jose-San Francisco	Granted	May 24, 1922
10465	7699	Highway Transport Company	To sell stage line in Fresno and Selma to Valley Transit Company	Granted	May 26, 1922
10466	7853	R. O. Hagan	To sell stage line in Fresno and Selma to R. O. Hagan	Granted	May 26, 1922
10467	7879	R. C. Barnes	To operate stage line between Fort Jones and Scott Bar	Granted	May 26, 1922
10468	7859	Marland O. Payne	To sell to Thomas and Hooper, truck line, Wanta Rosa-Healdsburg	Granted	May 26, 1922
10469	7872	Hildreth, Skillicore and Dicke	To sell to M. G. Filippini one-half interest, truck line	Granted	May 26, 1922
10470	7877	P. F. Magoria	To operate freight service, Ukiah-Cloverdale	Denied	May 31, 1922
10471	7572	Morris E. Brunner	To operate freight service, Culver City-Los Angeles	Granted	May 31, 1922
10472	7752	H. L. Boutell and H. S. Fuqua	To operate freight service, Riverside-Beaumont	Granted	May 31, 1922
10473	7690	A. W. McDonald	To operate freight service, Eureka and Burnt Ranch	Denied	May 31, 1922
10474	7145	D. E. Frazier	To operate freight service, Eureka and Korb	Denied	May 31, 1922
10475	7644	E. T. Stoddard	To extend passenger service, Fort Bragg, Westport, Union Landing	Granted	May 31, 1922
10476	7541	A. M. Cooper	Former to sell to latter, half interest Los Angeles-Laguna	Granted	June 1, 1922
10477	7725	A. Tartarian and Mario Marengo	To operate freight and express service, Oakland-San Francisco	Granted	June 1, 1922
10478	7804	B. Del Porto	Supplemental order canceling Decision No. 10176	Denied	June 2, 1922
10479	7467	Red Line Express and Transfer Company	To operate automobile service, Pacific City-Burlingame	Granted	June 6, 1922
10480	7855	Murieltha Mineral Hot Springs Auto Stage	To operate fish freight service, Pittsburg-San Francisco	Denied	June 8, 1922
10481	7681	Tony F. Tenent	To operate passenger service, Burlingame-Pacific City	Granted	June 8, 1922
10482	7684	Paolo Patane	To operate stage line, Crescent Mills and Sausalito	Granted	June 8, 1922
10483	7819	E. J. Ellison	To operate stage line, Escondido-Palomar Mt. Post Office	Granted	June 8, 1922
10484	7761	Ira N. Short	To operate stage line, Escondido-Palomar Mt. Post Office	Granted	June 8, 1922
10485	7778	Neri T. Hoxie, A. F. Hubbard, C. J. Stewart	To operate stage service between Ricardo and Guernville	Denied	June 8, 1922
10486	7824	George E. Waring and A. L. Linthicum	To sell to C. C. Newton and W. D. Ayres freight line	Granted	June 8, 1922
10487	7706	Leo M. Rowland	Former to sell to latter, stage line, Chico-Willows	Granted	June 8, 1922
10488	7806	Wm. E. Bledsoe	Former to sell to latter, stage line, Santa Ana-San Juan Capistrano	Granted	June 8, 1922
10489	7837	A. J. Kuss and J. C. Best	Former to sell to partners, stage line, Ferndale-Upper Mattole	Granted	June 8, 1922
10490	7891	J. W. Young and L. C. Hall	To operate stage line, Veramont and Genesee	Granted	June 8, 1922
10491	7897	A. J. Kuss and J. C. Best	To sell one-third interest, stage line, Santa Monica	Granted	June 8, 1922
10492	7908	J. H. Tarsch	To lease operative rights, Stockton-Byron	Granted	June 8, 1922
10493	7914	H. H. and P. H. Webb and O. E. Rowland	To sell interest, stage line, Monterey-Pacific Grove	Granted	June 8, 1922
10494	7916	California Transit Company	Former to sell to latter, truck line, Hopland-Kelseyville	Granted	June 8, 1922
10495	7920	H. N. White and A. J. Mason	To operate stage line, Sacramento-Fair Oaks	Granted	June 14, 1922
10496	7917	J. R. Huston and C. E. Doty	Change route of stage line between Fresno and Coalinga	Granted	June 16, 1922
10497	4387	Edward Tully			
10498	7767	Frank Robinson			

TABLE B. Auto Stage Applications—Concluded.

Doc. No.	Applica- tion No.	Applicant	Nature of proceeding	Action	Date
10502	7825	Frank A. Mullons and C. A. Chambers	Former to sell to latter one-half interest freight line	Granted	June 16, 1922
10503	7700	Carl Inghalls	To sell interest stage line to Chris Mathey and Walter Boyd	Granted	June 16, 1922
10504	7773	T. J. Silva	To operate truck line, fruit and vegetables, San Leandro-San Francisco	Granted	June 16, 1922
10505	7661	O. L. Hagdon	To change route, freight and express line, Fresno-Riverdale	Denied	June 16, 1922
10506	7601	Vern H. Lot	To operate freight service between Fresno and Auberry	Granted	June 22, 1922
10517	7714	Frank R. Freitas	To operate stage line between San Francisco and Korbol	Denied	June 22, 1922
10518	7834	Edwin J. Jensen	To operate freight and express line, Fresno-Caruthers	Denied	June 23, 1922
10522	7516	R. L. Woodhaus	To operate freight and express line, Redwood City-San Francisco	Granted	June 23, 1922
10523	7736	Joseph Barre	To extend operative rights, milk and cream, Manteca-San Francisco	Granted	June 23, 1922
10524	7638	Jose Torres	To operate stage line, Guadalupe-Richmond	Denied	June 23, 1922
10529	7819	E. J. Ellison	Supplemental order covering exact route, Burlington-Pacific City		June 29, 1922
10545	7907	Hodge Transportation System, Inc.	Temporary permit, operation freight service, fresh fruits	Granted	July 1, 1922
10546	7907	Edward Tully and Geo. R. Zurich	Former to sell to latter, stage line, Sacramento-Fair Oaks	Granted	July 1, 1922
10547	7937	James W. Nagley and Frankley and Delmas	Former to sell to latter, stage line, Alhambra-Cedarville	Granted	July 1, 1922
10548	7937	Frank W. Roundfield and O. G. Williams	Former to sell to latter, stage line, San Miguel-Stone Canyon	Granted	July 1, 1922
10558	7863	Ben H. McFarland	To operate stage line, San Bernardino-Randsburg	Granted	July 6, 1922
10559	7811	C. M. Bundy and W. R. Smith	Former to sell to latter, stage line, Grubbs-Los Angeles	Granted	July 6, 1922
10560	7733	Roscoe L. Brown and Geo. W. Hicks	To operate passenger service, Stockton-Oakhurst	Denied	July 6, 1922
10561	7577	G. F. Galbreath	To operate freight service, Chino-Corona	Granted	July 6, 1922
10562	7579	K. F. Beyerle	To extend service to Corona	Granted	July 6, 1922
10563	7655	P. L. Howland	To operate stage line, Orange-Silverado Canyon	Granted	July 6, 1922
10564	7782	Kso Yasmaka	To operate fruit and produce service, San Jose-San Francisco	Granted	July 6, 1922
10565	7782	R. B. Davis	To operate stage line between Nevada City and Forest	Denied	July 6, 1922
10567	7711	Oliver Phillips	To operate stage line, Marysville-Grass Valley	Denied	July 6, 1922
10570	7152	Hodge Transportation System, Inc.	To operate capacity load freight service, vicinity Los Angeles	Granted	July 7, 1922
10573	7707	Turner Lillie	To extend service from Angels to Murphys and Melones	Granted	July 7, 1922
10575	7583	W. R. Miles	To operate stage line between Toll House and Pine Ridge	Granted	July 7, 1922

TABLE C. Dismissals (Cases).

Dec. No.	Case No.	Litigants	Date
9032	1589	Charles B. Hopper et al vs. The Belvedere Water Company.....	June 1, 1921
9050	1188	J. W. Jamieson vs. Producers' Transportation Company et al.....	June 3, 1921
9072	961	City of Santa Barbara vs. The Santa Barbara Gas and Electric Co.....	June 8, 1921
9091	1557	L. Leroy King vs. Roseville Telephone Company.....	June 10, 1921
9175	1548	Grigg, Matley, Asmer and Standley vs. J. J. Horrigan.....	June 28, 1921
9297	1357	J. O. Davis vs. Pacific Telephone and Telegraph Company et al....	July 30, 1921
9298	1605	San Miguel District C. of C. vs. San Miguel Water Works.....	July 30, 1921
9318	1596	Schumacher Wall Board Company vs. Santa Fe.....	Aug. 5, 1921
9367	1613	Petaluma and Santa Rosa R. R. Company vs. Frank G. McSherry.....	Aug. 15, 1921
9380	1632	Antelope Valley Alfalfa Growers' Ass'n vs. Southern Pacific.....	Aug. 18, 1921
9400	1603	William M. Welch vs. Rose E. Strong.....	Aug. 23, 1921
9427	1618	J. I. Moore and W. H. Gibson and P. C. Thacker and D. D. Stafford.....	Aug. 30, 1921
9440	1144	Palo Alto Gas Company vs. Pacific Gas and Electric Company.....	Aug. 30, 1921
9466	1510	W. F. Pool et al vs. C. Meier.....	Sept. 6, 1921
9476	1318	Star Auto Stage Ass'n et al vs. J. L. Koehn et al.....	Sept. 7, 1921
9483	1625	Yuma Ice, Electric and Manufacturing Company vs. The Southern Sierras Power Company.....	Sept. 8, 1921
9535	1650	Newman Chamber of Commerce vs. Southern Pacific Company.....	Sept. 22, 1921
	1628	Redwood Manufacturers Co. vs. The Atchison, Topeka & Santa Fe.....	Oct. 21, 1921
9623	1629	Redwood Manufacturers Co. vs. Southern Pacific Company.....	Oct. 21, 1921
	1630	Redwood Manufacturers Co. vs. A. T. and S. F. Ry Co. et al.....	Oct. 21, 1921
	1631	Redwood Manufacturers Co. vs. Southern Pacific Company et al.....	Oct. 21, 1921
9627	1522	Harry N. Blair vs. Whetstone, Jakeway and Coast Truck Line.....	Oct. 21, 1921
9652	1637	City of Alameda vs. Southern Pacific Company.....	Oct. 26, 1921
9680	1600	Civil R. Hannah et al vs. Southern Pacific R. R. Co.....	Oct. 29, 1921
9733	1675	V. Summers vs. Clarence McClintock.....	Nov. 8, 1921
9734	1680	H. W. Glesner vs. The Pacific Telephone and Telegraph Company.....	Nov. 8, 1921
9742	1577	George J. Young vs. Lewis A. and Prudence Turner.....	Nov. 10, 1921
9781	1679	Emil J. Swanson vs. M. P. Martin et al.....	Nov. 18, 1921
9825	1509	City of Huntington Beach vs. Southern Counties Gas Company.....	Nov. 29, 1921
9906	1450	H. C. Hansen et al vs. Empire Water Company.....	Dec. 21, 1921
9982	1597	The us and Oaks Ass'n vs. Spring Estate Company.....	Jan. 9, 1922
10084	1682	Sacramento-Folsom Travelers Stage vs. A. L. Richardson.....	Feb. 8, 1922
	1558	C. W. Curphey vs. Percie C. Thacker and Duan D. Stafford.....	
	1559	C. W. Curphey vs. Imperial Ice and Development Company.....	
	1560	C. W. Curphey vs. John Doe Kretz and James Roe Brown.....	
	1561	C. W. Curphey vs. M. E. Mollett.....	
	1562	C. W. Curphey vs. G. W. Johnson.....	
	1563	C. W. Curphey vs. John Doe Gabler and James Roe Houston.....	
	1564	C. W. Curphey vs. J. N. Edwards and W. T. Ruston.....	
	1565	C. W. Curphey vs. John Doe Yokota.....	
10131	1566	C. W. Curphey vs. Rufus Nolan.....	Feb. 27, 1922
	1567	C. W. Curphey vs. William Stone.....	
	1568	C. W. Curphey vs. C. W. La Flower.....	
	1569	C. W. Curphey vs. A. H. Wetzel.....	
	1571	C. W. Curphey vs. John Doe Beal and James Roe Bailey.....	
	1572	C. W. Curphey vs. W. H. Burton.....	
	1573	C. W. Curphey vs. James Comparoulis.....	
	1574	C. W. Curphey vs. C. C. Gabriel.....	
	1575	C. W. Curphey vs. John Doe Johnson.....	
	1586	C. W. Curphey vs. M. Haydis and J. Haydis.....	
	1587	C. W. Curphey vs. R. Olsen.....	
10201	1657	Willows Chamber of Commerce vs. Southern Pacific Co.....	Mar. 17, 1922
10237	1695	Motor Carriers' Ass'n vs. Richard Roe Hoffman et al.....	Mar. 27, 1922
10249	1713	John H. Spring vs. San Jose Water Works.....	Mar. 27, 1922
10262	1701	Walter Manchester vs. The Pacific Telephone and Telegraph Co.....	Mar. 29, 1922
10311	1554	Coast Line Freight and Stage Co., Peterson Stage Line vs. Ed Barff, J. W. Mathews.....	Apr. 12, 1922
10329	1616	Solano County Farm Bureau et al vs. River Transp. Co. et al.....	Apr. 17, 1922
	1700	People State of California vs. Southern Pacific Company.....	Apr. 18, 1922
10332	1702	Moody Estate Company vs. Southern Pacific Company.....	Apr. 18, 1922
	1705	Thos. G. Knight et al vs. Southern Pacific Company.....	Apr. 18, 1922
10363	1715	Town of Martinez vs. Southern Pacific Company.....	Apr. 25, 1922
10399	1646	F. R. Powell vs. Valley Transfer Company.....	May 2, 1922
10400	1751	R. C. Cotter and Chas. E. Hubbard vs. Pacific Tel. and Tel. Co.....	May 2, 1922
10408	1278	Alameda County Water District vs. Spring Valley Water Co.....	May 3, 1922
10457	1528	Farm Bureau Public Utility Ass'n vs. San Joaquin Light and Power Corporation.....	May 16, 1922
10492	1716	County of Sutter vs. Southern Pacific Company.....	May 22, 1922
10517	1722	Albert T. Derby vs. San Anselmo Water Company.....	May 29, 1922
10540	1672	Pacific Portland Cement Co., Cons. vs. Southern Pacific et al.....	June 7, 1922
10542	1673	In re investigation Atchison, Topeka and Santa Fe Ry Co. et al.....	June 7, 1922
10573	1651	Universal Electric and Gas Co. vs. Pacific Gas and Electric Co. et al.....	June 9, 1922
10574	1721	Mrs. E. C. Harrington vs. Pacific Telephone and Telegraph Co.....	June 9, 1922
10598	1692	J. Marion Jones et al vs. Charles S. Mann.....	June 16, 1922
10630	1780	Bay and River Boat Owners' Ass'n vs. E. W. Bartell et al.....	June 28, 1922
10631	1772	A. F. Hanson vs. Pacific Telephone and Telegraph Co.....	June 28, 1922
10632	1755	G. Edwin Alderson et al vs. Baldwin Park Domestic Water Co.....	June 28, 1922

TABLE D. Dismissals (Applications).

Dec. No.	Applica- tion No.	Applicant	Nature of proceeding	Date
9031	6747	Culy and Canning	To operate stage service.	June 1, 1921
9054	6652	Tognini, Ghezzi and Dalidio Telephone Company	To abandon telephone service.	June 6, 1921
9088	6725	L. W. Hydes	To operate stage line.	June 9, 1921
9092	6458	Joseph James and G. and W. Stage Company	To transfer certain franchise rights.	June 10, 1921
9093	5897	Motor Transit Company	To adjust rates.	June 10, 1921
9106	3706	J. S. Bothwell and R. S. Anthony	To transfer stage line.	June 14, 1921
9118	6383	C. R. Hooper	To operate stage line.	June 18, 1921
9119	6773	J. H. Morgan	To operate stage line.	June 18, 1921
9120	6674	F. Crews and F. T. Morss	To operate stage line.	June 18, 1921
9154	6211	A. C. Woodard	To operate freight service.	June 24, 1921
9157	6302	O. L. Swett	To operate stage line.	June 24, 1921
9158	4451	Star Auto Stage Association	To increase rates.	June 24, 1921
9159	3479	The M. Passalacqua Benicia-Vallejo Stage Line.	To operate over alternative route.	June 29, 1921
9184	6243	The Pickwick Stages, Nor. Div., Inc.	To operate stage line.	July 2, 1921
9207	6939	Dos Palos Passenger and Freight Line	To operate stage line.	July 11, 1921
9211	6739	Spies Bros.	To operate milk truck service.	July 12, 1921
9229	4738	Leo, Zolton and Theodore Steiner	To operate freight service.	July 23, 1921
9264	6799	Thos. D. Cloyd	To operate stage line.	July 23, 1921
9265	6695	J. O. Hagan	To operate stage line.	July 23, 1921
9266	6795	E. E. Williams	To operate stage line.	July 23, 1921
9269	6615	H. M. Thornburg	To operate stage line.	July 26, 1921
9282	6821	Myrtle Anderson	To operate motor truck service.	July 26, 1921
9283	4765	R. Bush	To operate freight service.	July 28, 1921
9284	4764	Arthur E. Palmer	To operate stage line.	July 28, 1921
9285	6873	T. L. and Seymour Tally	To operate freight service.	July 28, 1921
9286	6654	Martin B. Behrenz	To operate freight service.	July 28, 1921
9299	3326	South San Joaquin Irrigation District	To establish water rate and regulation	July 30, 1921
9300	6687	Manteca Telephone and Telegraph Company	To increase rates.	July 30, 1921
9302	6705	W. O. Fearnside	To decrease freight service.	July 30, 1921
9304	7029	Pasadena-Pomona Stage Line	To decrease passenger rates.	July 30, 1921
9310	6656	Calvin W. Baggs	To operate stage line.	Aug. 4, 1921
9317	6429	G. and N. Stage Company	To operate stage line.	Aug. 5, 1921
9322	7046	Harry Gaeta and Joseph Held	Approval of agreement.	Aug. 5, 1921
9325	6922	W. T. Harris	To operate truck service.	Aug. 5, 1921
9326	6842	Leo M. Roland	To operate stage line.	Aug. 5, 1921
9327	6878	W. G. Young and R. J. Young	To operate stage line.	Aug. 5, 1921
9335	5924	Peerless Stage Association.	To change routing.	Aug. 9, 1921
9341	5741	Peerless Stage Association.	To transfer stage line.	Aug. 10, 1921
9348	6883	Cleve Tallman	To operate freight service.	Aug. 10, 1921
9349	6847	H. A. Wilson	To operate additional stage service.	Aug. 12, 1921
9350	6846	H. A. Wilson	To extend route of stage line.	Aug. 12, 1921

9351	H. A. Wilson.....	To increase fares.....	Aug. 12, 1921
9365	Archibold Robert Hohnstone.....	To operate stage line.....	Aug. 15, 1921
9366	Roy C. Sutton and George M. Wadsworth.....	To operate stage line.....	Aug. 15, 1921
9385	J. C. Hirschman, J. E. Silva and J. J. Borda.....	To operate stage line.....	Aug. 19, 1921
9391	Waterman and Carne.....	To operate freight service.....	Aug. 23, 1921
9415	Manuel J. Simas.....	To discontinue water service.....	Aug. 25, 1921
9417	George A. and George T. Chambers and Nelson Lilley.....	To sell stage line.....	Aug. 25, 1921
9418	Nelson Lilley and J. J. and T. A. Thornton.....	To sell stage line.....	Aug. 25, 1921
9425	A. L. Richardson.....	To operate stage line.....	Aug. 25, 1921
9426	J. B. Culpepper and James Gordon.....	To operate freight service.....	Aug. 25, 1921
9431	Highway Transport Company.....	To extend freight service.....	Aug. 26, 1921
9441	Midway Gas Company.....	To increase rates.....	Aug. 30, 1921
9462	A. H. and I. Slippy.....	To increase rates.....	Sept. 3, 1921
9482	City of Chico.....	To operate stage line.....	Sept. 3, 1921
9491	Stockton, Sonora and Groveland Stage Line.....	To fix rates and acquire electric system.....	Sept. 8, 1921
9496	C. M. Ray.....	To change rates and fares.....	Sept. 12, 1921
9502	L. A. Grubbs.....	To extend freight service.....	Sept. 12, 1921
9503	Ira C. Unruh.....	To operate stage line.....	Sept. 14, 1921
9544	David W. Powers.....	To operate freight service.....	Sept. 14, 1921
9546	Marston-Greening Company.....	To operate stage line.....	Sept. 14, 1921
9547	Roy E. Zanni.....	To discontinue warehouse.....	Sept. 23, 1921
9591	Frank H. Buick.....	To operate stage line.....	Sept. 23, 1921
9594	C. W. Currey.....	To operate stage line.....	Sept. 23, 1921
9594	Fowler Gas Company.....	To operate freight service.....	Oct. 4, 1921
9603	A. H. Wetzel and J. H. Eastman.....	To increase rates.....	Oct. 4, 1921
9617	Joe Bozoff vs. Bob Arutoff.....	To operate freight service.....	Oct. 14, 1921
9617	Joe Bozoff.....	To operate freight service.....	Oct. 14, 1921
9617	Bob Arutoff.....	To operate freight service.....	Oct. 17, 1921
9619	Los Angeles and Mt. Washington Railway Company.....	To operate milk route freight service.....	Oct. 17, 1921
9624	Joseph T. Smith.....	To sell real property.....	Oct. 17, 1921
9625	Frank G. Matthiessen.....	To operate stage line.....	Oct. 21, 1921
9633	F. T. Morse and B. Worthington.....	To operate freight service.....	Oct. 21, 1921
9646	Fred Walker, J. E. Anderson, H. E. Thompson et al.....	For approval of certain agreement.....	Oct. 21, 1921
9660	J. H. Dodge.....	To transfer operative rights.....	Oct. 26, 1921
9661	Star Auto Stage.....	To operate stage line.....	Oct. 27, 1921
9662	Captain M. R. Tyrone.....	To operate stage line.....	Oct. 27, 1921
9676	Gerrans Bros.....	To operate stage line and parcel service.....	Oct. 27, 1921
9679	City of Stockton vs. Pacific Gas and Electric Company et al.....	To operate freight service.....	Oct. 29, 1921
9701	City of Marysville.....	To acquire an existing public utility.....	Oct. 29, 1921
9701	H. K. Anderson.....	To operate freight truck milk route.....	Nov. 4, 1921
9718	Edgar Smith and Lawrence Mills.....	To operate stage line.....	Nov. 4, 1921
9719	Abraham Epstein and John W. Dickerson.....	To operate extension service.....	Nov. 4, 1921
9720	Charles A. Winters.....	To operate stage line.....	Nov. 4, 1921
9741	J. C. Walling.....	To operate stage line.....	Nov. 10, 1921
9744	L. T. Rowley.....	To raise water rates.....	Nov. 10, 1921
9775	Imperial Gypsum and Oil Company.....	To construct railroad.....	Nov. 17, 1921
9780	George P. Fallon.....	To operate milk freight service.....	Nov. 18, 1921
9810	Citrus Belt Gas Company.....	To sell gas plant.....	Nov. 18, 1921
9842	A. W. Way.....	To operate freight service.....	Nov. 23, 1921
9858	Ralph R. Paul.....	To operate stage line.....	Dec. 5, 1921
9858	Ralph R. Paul.....	To operate stage line.....	Dec. 10, 1921

TABLE D. Dismissals (Applications)—Concluded.

Dec. No.	Applica- tion No.	Applicant	Nature of proceedings	Date
9868	7167	J. E. Gurney, T. O. Frasier and W. J. Schrader	To operate stage line.	Dec. 14, 1921
9869	7366	Bakersfield and Los Angeles Fast Freight, Inc.	To operate restricted freight service.	Dec. 14, 1921
9870	7168	J. E. Gurney, T. O. Frasier and W. J. Schrader	To operate stage line.	Dec. 14, 1921
9883	6484	Spring Estate Company	To increase water rates.	Dec. 16, 1921
9907	1731	Castro Point Railway and Terminal Company	To issue capital stock.	Dec. 21, 1921
9924	6272	Western Motor Transport Company	To operate stage line.	Dec. 23, 1921
9925	7000	White Brothers Water Company	To install meter and increase rates.	Dec. 28, 1921
9945	6685	Henry Goosen.	To increase water rates.	Dec. 29, 1921
9946	7336	Geo. Wm. Smith.	To operate stage service.	Dec. 29, 1921
10003	6510	Town of Walnut Creek	To acquire existing public utility.	Jan. 20, 1922
10041	7387	A. L. Richardson	To operate stage service.	Jan. 30, 1922
10042	7482	C. F. Spellman and William Link.	To operate truck service.	Jan. 30, 1922
10058	7395	Lawrence Keller.	To operate express of automobile parts, exclusively.	Feb. 2, 1922
10062	7434	M. C. Griggs	To operate freight service.	Feb. 15, 1922
10083	7300	Rice Transportation Company	To operate freight service.	Feb. 15, 1922
10084	7396	Gates Auto Stage Line.	To operate stage service.	Feb. 15, 1922
	6887	J. M. Maurer et al.	To handle express and light packages in connection with passenger service.	Feb. 15, 1922
10095	6888	J. M. Maurer et al.	To operate stage line.	Feb. 15, 1922
10096	7332	Robert H. Wells	To operate stage service.	Feb. 15, 1922
10106	7512	Guido de Ghetaldi.	To increase rates.	Feb. 17, 1922
10126	7456	Graham Transportation Company	To operate passenger service.	Feb. 27, 1922
10151	7446	R. H. Clarke and F. O. Garrett.	To establish freight service.	Mar. 6, 1922
10152	3450	Board of Trustees, City of Merced	Valuation of gas plant.	Mar. 6, 1922
10170	6392	Producers Transportation Company	Valuation of light and power works.	Mar. 6, 1922
10171	6495	C. R. Spickard and Josef Reiffeller	To issue stock.	Mar. 6, 1922
10172	7224	Consolidated Water Company of Pomona.	To operate stage line.	Mar. 8, 1922
10184	7108	Harry Buck, C. Carner and B. Moskovitz.	Petition for rehearing in re contract with consumers, Pomona.	Mar. 8, 1922
10238	7382	W. R. Miles.	To extend public convenience and necessity.	Mar. 11, 1922
10239	7382	D. B. Maurice.	To extend present passenger service.	Mar. 27, 1922
10244	7297	V. M. Scroggs.	To operate passenger service.	Mar. 27, 1922
10244	7297	J. Y. Scott and Ross Forsyth.	To transfer stage line.	Mar. 27, 1922
10310	7719	Postal Telegraph-Cable Company.	To close office in Vacuville as of February 15, 1922.	Apr. 12, 1922
10318	7611	Ben J. Byles.	To operate passenger service.	Apr. 21, 1922
10341	7515	El Dorado Water Company	To modify and change water rates.	Apr. 21, 1922
10343	7515	Wm. H. Anderson.	To operate passenger service.	Apr. 25, 1922
10364	7702	D. D. Dickinson.	To sell water system, pipe lines and water rights.	Apr. 25, 1922
10365	7532	Citizens' Securities Company and Nicola Amatuzio.	To approve rates, rules and regulations.	Apr. 25, 1922
10377	7698	A. P. Baldwin and E. Rosalie Baldwin.	To operate stage line.	May 2, 1922
10392	7768	V. V. Anderson	To establish uniform classification and class rates.	May 12, 1922
10446	7628	San Fernando Haulage Company.		May 12, 1922
10448	7394			

10470	7783	J. W. Houk and J. H. Smith.	To operate passenger service.	May 17, 1922
10478	7886	Jackson C. Horn.	To operate stage line.	May 18, 1922
10503	7868	C. E. Means and Pickwick Stages, Inc.	To operate stage service.	May 24, 1922
10531	6877	Contra Costa Gas Company	To issue bonds.	June 2, 1922
10537	7771	Russell A. Peck.	To sell auto truck package delivery system.	June 6, 1922
10538	7832	San Francisco-Oakland Terminal Railways.	To apply portions depreciation fund and issue equipment trust notes.	June 8, 1922
10572	7101	Universal Electric and Gas Company.	To revise schedule of rates.	June 9, 1922
10575	7915	Robert O'Neil.	To operate express service.	June 9, 1922
10583	7696	C. N. Gaylord.	To operate stage line.	June 14, 1922
	7779	W. R. Miles.	To operate stage line.	June 14, 1922
	7849	Christ and Nick Stavros.	To extend stage line.	June 14, 1922
10584	7780	H. H. Davis and Hollie Hiron.	To operate freight service.	June 14, 1922
10585	7755	Christ and Nick Stavros.	To change route.	June 14, 1922
10586	7845	Frank S. Smith, Jr.	To operate motor touring car de luxe passenger service.	June 14, 1922
10629	7117	City of Red Bluff.	To value distributing system of Pacific Gas and Electric System.	June 27, 1922
10657	7821	Roy L. Hunt.	To operate stage line.	July 5, 1922

TABLE E. Grade Crossings.

Dec. No.	App. No.	Applicant (and other parties)	Location	Action	Date
9036	6194	County of Imperial (Southern Pacific)...	Wister	Granted	June 3, 1921
9038	6557	San Joaquin County (Southern Pacific)...	Clements	Granted	June 3, 1921
9056	5519	County of Tehama (Southern Pacific)...	Los Molinos	Dismiss	June 4, 1921
9057	6196	County of Imperial (Southern Pacific)...	Niland	Denied	June 4, 1921
9061	6751	A. T. & S. F. Ry. (City of Merced)...	24th street	1	June 6, 1921
9063	3139	Western Pacific R. R. (S. Clara Co. and Penin)	Berryessa Road	2	June 6, 1921
9070	6841	Southern Pacific Co. (Fresno County)	El Prado	Granted	June 8, 1921
9077	5783	San Joaquin County (Central Pac. R. R.)	Weston	Dismiss	June 9, 1921
9112	6915	Southern Pacific Co. (Fresno County)	Biola	Granted	June 18, 1921
9113	6905	Pacific Elec. Ry. Co. (Los Angeles Co.)	Oakhurst	Granted	June 18, 1921
9137	6678	County of Tulare (Visalia Elec. R. R.)	Lemon Cove	Granted	June 23, 1921
9194	6819	Western Pac. R. R. (S. P. A. T. & S. F.)	Illinois street	Granted	June 30, 1921
9201	3037	L. A. & Salt Lake R.R. (City Los Angeles)	9 streets	Granted	July 2, 1921
9209	6962	A. T. & S. F. Ry. Co. (City Los Angeles)	San Pedro street	Granted	July 11, 1921
9210	6803	City of Arcadia (Southern Pacific)	El Molino		
			Holly streets	Granted	July 11, 1921
9221	6696	County of Stanislaus (Central Pac. R. R.)	Turlock	Granted	July 12, 1921
9246	6993	Southern Pacific Co. (Kern County)	Near Taft	Granted	July 21, 1921
9247	6994	Southern Pacific Co. (City of Taft)	Taft	Granted	July 21, 1921
9248	6995	Southern Pacific Co. (City of Kingsburg)	Earl-Draper Sts.	Granted	July 21, 1921
9268	6979	Cal. & Ore. Lbr. Co. (Del Norte County)	Smith River	Granted	July 26, 1921
9291	6749	County of Fresno (Southern Pacific)	Garonne avenue	Denied	July 30, 1921
9293	1621	City of Manhattan Beach (A. T. & S. F. Ry.)	Rosecrans Ave.	Granted	July 30, 1921
9301	7010	Southern Pacific Co. (City of Kingsburg)	Simpson street	Granted	July 30, 1921
9324	5645	County of Kern (A. T. & S. F. Ry. Co.)	Pond	Dismiss	Aug. 5, 1921
9328	6849	County of Sacramento (Western Pac. R.R.)	Glennvale	Granted	Aug. 5, 1921
9344	7055	A. T. & S. F. Ry. Co. (City of Santa Ana)	Fruit street	Granted	Aug. 10, 1921
9346	6898	Southern Pacific Co. (Riverside County)	Coachella	Granted	Aug. 10, 1921
9356	7059	Southern Pacific Co. (Sacramento Co.)	Galt	Granted	Aug. 13, 1921
9362	7048	Southern Pacific Co. (City of Sanger)	Eleventh street	Granted	Aug. 15, 1921
9363	6914	Southern Pacific Co. (City of Dinuba)	Several streets	Granted	Aug. 15, 1921
9369	6677	County of Tulare (Southern Pacific)	Goshen	Dismiss	Aug. 16, 1921
9370	6415	County of Fresno (Southern Pacific)	Floyd	Denied	Aug. 16, 1921
9371	6882	County of Fresno (Central Pac. R. R.)	Olive Ave. near Fresno	Granted	Aug. 16, 1921
9372	4150	County of Fresno (Central Pac. R. R.)	Olive Ave. near Fresno	Granted	Aug. 16, 1921
9375	7056	Southern Pacific Co. (City of Oakland)	104 Ave.	Granted	Aug. 17, 1921
9406	7094	Southern Pacific Co. (City of Vernon)	Alameda street	Granted	Aug. 24, 1921
9407	7093	Southern Pacific Co. (City of Hanford)	5 street	Granted	Aug. 24, 1921
9438	6960	County of Los Angeles (Pac. Elec. Ry.)	Cudahy Ave.	Granted	Aug. 30, 1921
9439	6937	County of Los Angeles (Pac. Elec. Ry.)	Walnut Grove Av	Granted	Aug. 30, 1921
9465	6807	County of Merced (Central Pac. R. R.)	Mission Ave	Denied	Sept. 6, 1921
9467	6819	Western Pacific R. R. Co. (San Francisco, S. P. and Santa Fe)	Illinois St.	Amended	Sept. 6, 1921
9468	3139	Western Pacific R. R. Co. (South. Pacific)	Valdriek	Granted	Sept. 7, 1921
9488	7146	Southern Pacific Co. (Los Angeles Co.)	Laurel Ave.	Granted	Sept. 12, 1921
9500	6855	County, San Bernardino (Southern Pac.)	Delez Station	Granted	Sept. 14, 1921
9511	7157	Southern Pacific Co. (City of Newman)	San Joaquin St.	Granted	Sept. 14, 1921
9521	7135	Southern Pacific Co. (Fresno County)	Jensen Ave.	Granted	Sept. 15, 1921
9523	7166	Southern Pacific Co. (City of Exeter)	Firebaugh Ave.	Granted	Sept. 15, 1921
9524	7021	County of Merced (A. T. & S. F. Ry. Co.)	Bullico	Denied	Sept. 15, 1921
9533	7165	Tidewater Southern Ry. Co. (City of Turlock)	Several streets	Granted	Sept. 19, 1921
9551	6407	County of Tulare (Southern Pacific)	Goshen	Denied	Sept. 23, 1921
9554	7028	Merced County (A. T. & S. F. Ry. Co.)	S. Orchard Drive	Granted	Sept. 23, 1921
9568	7055	A. T. & S. F. Ry. Co. (City of Santa Ana)	Fruit street	1	Sept. 28, 1921
9570	6934	County of Imperial (Southern Pacific)	Rockwood	Dismiss	Sept. 28, 1921
9590	6935	County of Imperial (Southern Pacific)	Grape	Granted	Oct. 4, 1921
9592	7075	County of Tulare (Southern Pacific)	Earlhart	Dismiss	Oct. 4, 1921
9595	6676	County of Tulare (A. T. & S. F. Ry. Co.)	Woodlake	Denied	Oct. 6, 1921
9598	7214	Southern Pacific Co. (Town Emeryville)	66th street	Granted	Oct. 6, 1921
9600	7174	City of South Pasadena (S. P. Co.)	Spruce street	Granted	Oct. 14, 1921
9601	6911	City of Riverside (S. P. and L. A. & S. L.)	Mulberry street	Granted	Oct. 14, 1921
9602	6814	County, San Bernardino (Southern Pacific)	Cactus Ave.	Denied	Oct. 14, 1921
9614	7248	Southern Pacific Co. (City of Vernon)	Ross street	Granted	Oct. 17, 1921
9615	7076	County of Tulare (Southern Pacific)	Pixley	Granted	Oct. 17, 1921
9621	7246	Southern Pacific Co. (Butte County)	Palermo-R R Ave	Granted	Oct. 20, 1921
9651	7220	Hutchinson Lbr. Co. (Butte County)	Radwell Bar et al	Granted	Oct. 26, 1921
9656	7200	County of Butte (Sacto. Northern R. R.)	Blayo Station	Granted	Oct. 27, 1921
9657	7201	County of Butte (Sacto. Northern R. R.)	Ramada Station	Granted	Oct. 27, 1921
9658	7266	A. T. & S. F. Ry. Co. (City of Vernon)	50 street	Granted	Oct. 27, 1921
9708	6930	Pacific Elec. Ry. Co. (City of L. A.)	Atwater Ave.	Granted	Nov. 4, 1921
9710	7022	City of Venice (Pac. Elec. Ry. Co.)	Horizon Ave.	Denied	Nov. 4, 1921
9711	7023	City of Venice (Pac. Elec. Ry. Co.)	Center street	Granted	Nov. 4, 1921
9713	7256	Western Pacific R. R. (Butte & Plumas Ry.)	Radwell Bar	Granted	Nov. 4, 1921
9714	7287	Western Pacific R. R. (Santa Clara Co.)	Lincoln Ave.	Granted	Nov. 4, 1921

1Correcting error in description.

2Modification of prior order.

TABLE E. Grade Crossings—Continued.

Dec. No.	App. No.	Applicant (and other parties)	Location	Action	Date
9729	7293	City of Glendale (Pac. Elec. Ry. Co.)	San Fernando rd	Granted	Nov. 8, 1921
9730	5647	City of Taft (Sunset Ry. Co.)	4 streets	²	Nov. 8, 1921
9739	7174	City of South Pasadena (S. P. Co.)	Spruce streets	²	Nov. 10, 1921
9740	7310	Western Pac. R. R. Co. (Santa Clara Co.)	Lincoln Northrup Ave.	Granted	Nov. 10, 1921
9743	7285	Southern Pacific Co. (Glenn County)	Willow-Cedar St.	Granted	Nov. 10, 1921
9744	7302	Southern Pacific Co. (City of Ceres)	1st & City Sts.	Granted	Nov. 10, 1921
9769	7269	People of California (A.T. & S.F. Ry. Co.)	Mojave	Granted	Nov. 17, 1921
9772	7270	People of California (Southern Pacific)	Mojave	Granted	Nov. 17, 1921
9783	7337	Pacific Elec. Ry. Co. (City of Orange)	Palm Ave.	Granted	Nov. 18, 1921
9806	7294	County of Shasta (Southern Pacific)	Cottonwood	Granted	Nov. 23, 1921
9809	7129	Pacific Elec. Ry. Co. (City of Whittier)	Philadelphia	Granted	Nov. 23, 1921
9815	7316	County of Los Angeles (A.T. & S.F. Ry.)	Hobart	Granted	Nov. 26, 1921
9829	7377	Northwestern Pac. R.R. (Humboldt Co.)	Arcata	Granted	Nov. 30, 1921
9841	7286	Western Pacific R.R. Co. (City San Jose)	5 streets	Granted	Dec. 6, 1921
9845	7044	Siskiyou County (Southern Pacific)	Klamath Falls Br.	Granted	Dec. 8, 1921
9854	7247	Southern Pacific Co. (City of Woodland)	Oak & East Sts.	Granted	Dec. 8, 1921
9855	6506	County of Shasta (Southern Pacific)	Cottonwood	Dismiss	Dec. 8, 1921
9866	7391	Southern Pacific Co. (City of Alhambra)	Chestnut street	Granted	Dec. 14, 1921
9867	7165	Tidewater South Ry. Co. (City Turlock)	Several streets	Granted	Dec. 14, 1921
9874	7028	Merced County (A.T. & S.F. Ry. Co.)	S. Orchard Dr.	Denied	Dec. 16, 1921
9879	7096	Merced County (Southern Pacific)	No. Merced	Denied	Dec. 16, 1921
9880	7389	Southern Pacific Co. (City El Centro)	Olive Ave.	Granted	Dec. 16, 1921
9900	7324	Imperial Gypsum & Oil Co. (People, State)	Dixieland	Granted	Dec. 20, 1921
9904	6590	People, California (Southern Pacific)	Westhaven Siding	Amended	Dec. 20, 1921
9933	7410	Pac. Elec. Ry. Co. (City of Orange)	Maple Ave. near Cypress street	Granted	Dec. 27, 1921
9934	7381	Western Pac. R. R. Co. (City Oakland)	20th Ave.	Granted	Dec. 27, 1921
9941	7151	City San Fernando (Southern Pacific)	Jessie and Wolf-skill streets	Denied	Dec. 29, 1921
9951	5998	City Bakersfield (S.P.R.R. Co. & S.P. Co.)	Union Ave.	³	Dec. 30, 1921
9960	7426	County Los Angeles (Pac. Elec. Ry. Co.)	Wesley St., Cul-ver City	Granted	Dec. 31, 1921
9962	7433	Santa Fe (City Los Angeles)	Imperial street	Granted	Jan. 4, 1922
9966	7272	County of Kern (Southern Pacific)	Button-willow	Granted	Jan. 4, 1922
9968	7321	County of Kern (Southern Pacific)	Near McFarland	Denied	Jan. 4, 1922
9973	7375	City Montebello (L.A. & S.L. R.R.)	Greenwood Ave.	Granted	Jan. 6, 1922
9980	7461	Western Pac. R.R. Co. (City Sacramento)	"S" street	Granted	Jan. 9, 1922
9983	3139	Western Pac. R.R. Co. (Southern Pacific)	San Jose	⁴	Jan. 9, 1922
10016	7485	Southern Pacific Co. (State Highway)	Near Los Molinos	Granted	Jan. 27, 1922
10027	7477	Southern Pacific Co. (City El Centro)	Olive Ave.	Granted	Jan. 30, 1922
10028	7462	Tidewater South Ry. Co. (City Modesto)	Ninth street	Granted	Jan. 30, 1922
10029	7443	Southern Pacific Co. (County of Fresno)	Central Ave.		
			Malaga	Granted	Jan. 30, 1922
10030	7481	Southern Pacific Co. (County of Fresno)	Friant	Granted	Jan. 30, 1922
10038	7309	Western Pac. R.R. Co. (Peninsular Ry. Co. and County of Santa Clara)	San Carlos street near San Jose		
10040	7316	County Los Angeles (Santa Fe Ry.)	Near Hobart	Granted	Jan. 30, 1922
10051	7503	Southern Pacific Co. (City of Brawley)	K street	Granted	Feb. 2, 1922
10052	7511	Southern Pacific Co. (City of El Centro)	Orange street	Granted	Feb. 2, 1922
10077	7255	Western Pac. R.R. Co. (Co. Santa Clara)	Pomona Ave. near San Jose	Granted	Feb. 8, 1922
10083	7426	County Los Angeles (Pac. Elec. Ry. Co.)	Wesley street, Culver City	⁵	Feb. 8, 1922
10086	7546	Southern Pacific Co. (City of Oakland)	Campbell street near 18th street	Granted	Feb. 15, 1922
10087	7543	Western Pac. R.R. Co. (City San Francisco)	Marin street		
10108	7544	Southern Pacific Co. (City Santa Cruz)	Near Kansas	Granted	Feb. 15, 1922
10109	7129	Pac. Elec. Ry. Co. (City Whittier)	Watson Ave.	Granted	Feb. 20, 1922
10111	7383	City Pacific Grove (Southern Pacific)	Philadelphia St.	Granted	Feb. 20, 1922
10114	7575	Southern Pacific Co. (City of Vernon)	Pico Ave.	Granted	Feb. 20, 1922
10138	7595	Southern Pacific Co. (City of Delano)	Ross St. nr 38th	Granted	Feb. 27, 1922
10148	7555	L.A. & S. L. R.R. Co. (City Long Beach)	Fresno-Mariposa	Granted	Feb. 27, 1922
10149	7591	Pac. Elec. Ry. Co. (City of Ontario and Santa Fe)	Riverside St. et al	Granted	Mar. 6, 1922
			Stowell street & 3d & Sultana av	Granted	Mar. 6, 1922
10154	7547	County Los Angeles (Pac. Elec. Ry. Co.)	Walnut Drive nr Culver City	Granted	Mar. 6, 1922

¹Correcting error in description.²Modification of prior order.³Amending Decision No. 8224.⁴Modification of Decision No. 4744.⁵Amending Decision No. 9815.⁶Modifying and amending Decision No. 9960.

TABLE E. Grade Crossings—Continued.

Dec. No.	App. No.	Applicant (and other parties)	Location	Action	Date
10169	7597	Southern Pacific Co.(County of Kern).....	Nr. Magunden.....	Granted	Mar. 8, 1922
10173	7623	Santa Fe (County of Contra Costa).....	Near Pittsburg.....	Granted	Mar. 11, 1922
10195	7633	Santa Fe (City of El Cerrito).....	Schmidt Lane.....	Granted	Mar. 15, 1922
10196	7624	Santa Fe (County of Los Angeles).....	Romandel Ave. nr Santa Fe Spgs	Granted	Mar. 15, 1922
10198	7598	Pac. Elec. Ry Co.(City of Orange).....	Walnut street nr Cypress street	Granted	Mar. 15, 1922
10235	7665	A. T. & S.F. Ry Co. (City Bakersfield).....	Tulare-Inyo Sts.	Granted	Mar. 27, 1922
10254	7687	Santa Fe (Stanislaus County).....	Hughson.....	Granted	Mar. 29, 1922
10256	7647	Pac. Elec. Ry Co.(City of Colton).....	Congress St. bet. 8th and Pine	Granted	Mar. 29, 1922
10266	7688	Santa Fe (City of Vernon).....	26th street.....	Granted	Mar. 29, 1922
10267	7548	County of Los Angeles (Sou. Pac. Co.).....	Redman Road near Oban	Granted	Apr. 1, 1922
10269	7496	City of Oroville (Southern Pacific).....	3d St. Oroville	Granted	Apr. 1, 1922
10279	7640	County of Tehama (Southern Pacific).....	Chard Ave. near Proberta	Dismiss	Apr. 5, 1922
10287	7670	Southern Pacific Co.(Pac. Elec. Ry Co.).....	Clement Jet, L.A.	Granted	Apr. 6, 1922
10305	7685	County Los Angeles (Pac. Elec. Ry Co.).....	Springdale Ave.	Granted	Apr. 12, 1922
10330	7576	City Santa Ana et al (Pac.Elec.Ry Co.).....	Wisteria, Beverly & Normandy Places	Granted	Apr. 17, 1922
10340	7724	Petaluma & Santa Rosa R.R.Co. (City of Petaluma).....	Along 1st street, crossing 11 sts.	Granted	Apr. 21, 1922
10344	7757	Northwestern Pac. R.R. Co. (City of San Rafael).....	Third street	Granted	Apr. 21, 1922
10345	7753	Santa Fe (City of Blythe).....	Murphy street	Granted	Apr. 21, 1922
10358	7758	Northwestern Pac. R.R. Co.(City of Santa Rosa).....	Second St. near Williams street	Granted	Apr. 25, 1922
10394	7769	Southern Pacific Co.(City of Alhambra).....	Mission Road near Shorb	Granted	May 2, 1922
10395	7764	Santa Fe (Tulare County).....	Rocky Hill Dr. near Exeter	Granted	May 2, 1922
10405	7577	County of Fresno (Southern Pacific).....	Highland Ave. near Selma	Granted	May 3, 1922
10425	7814	County Los Angeles (Pac.Elec.Ry Co.).....	Bay Shore Drive nr. Ocean byvd.	Granted	May 8, 1922
10430	7800	Southern Pacific Co.(City of San Jose).....	Sunol street	Granted	May 8, 1922
10431*	7064	People, State Calif.(Southern Pacific).....	Nr. Cottonwood	Granted	May 10, 1922
10437	6557	San Joaquin County (Southern Pacific).....	Nr. Clements	Granted	May 10, 1922
10438	7813	Southern Pacific Co.(City Alhambra).....	Mission Road nr. Shorb	Granted	May 10, 1922
10442*	7634	People State Calif.(Northwestern Pac.).....	Nr. Lytton	Granted	May 12, 1922
10446	7736	Hutchinson Lbr. Co.(County of Butte).....	Nr. Mooretown	Granted	May 12, 1922
10445	7797	Santa Fe (City of Stockton).....	Hazel street	Granted	May 12, 1922
10450	7846	Southern Pacific Co.(City of Calexico).....	Birch street	Granted	May 12, 1922
10458	7791	Western Pac. R.R. Co. and Sacramento Northern Railroad (City Sacramento).....	Front, P & Q streets	Granted	May 16, 1922
10463	7321	County of Kern (Southern Pacific).....	Nr. Delano	Granted	May 16, 1922
10464	5616	County of Kern (Southern Pacific).....	Nr. McFarland	Granted	May 16, 1922
10465	7751	City Santa Paula (Southern Pacific).....	Sewell Lane	Granted	May 16, 1922
10471	7596	Minarets and Western Ry Co. and Sugar Pine Lbr. Co.(Fresno & Madera Co.).....	Nr. Setch Mill-site, Friant, Purtyman, Camp Whiskers	Granted	May 17, 1922
10486	7398	County of Tulare (Southern Pacific).....	Nr. Venice Hill	Granted	May 22, 1922
10488	7842	A. P. Heise (City of San Francisco and Market street Ry.).....	Embarcadero, Steuart and Howard streets.	Granted	May 22, 1922
10490	7431	County of Tulare (Southern Pacific).....	Nr. Octol	Granted	May 22, 1922
10491	7414	Tulare County (Sante Fe).....	Nr. Peral	Denied	May 22, 1922
10493	7835	Southern Pacific Co.(City of Madera).....	Sixth street	Granted	May 22, 1922
10497	7743	Pac. Elec. Ry Co.(County Los Angeles).....	Preuss rd. nr. Sherman	Granted	May 22, 1922
10498	7833	Santa Fe (City of Los Angeles).....	Avenue 33	Granted	May 24, 1922
10502	7857	Southern Pacific Co.(City of Brawley).....	So. boundary of Brawley	Granted	May 24, 1922
10528	7692	County San Bernardino (Sante Fe).....	Nr. Thorn Sta.	Granted	June 2, 1922
10558	7896	Southern Pacific Co.(City of Fresno).....	El Dorado St.	Granted	June 8, 1922
10555	7906	Pac. Elec. Ry Co.(City of Fullerton).....	Commonwealth Av. nr Lawrence	Granted	June 8, 1922

*Separation of grades.

†Amending Decision No. 9038.

‡Revoking order in Decision No. 7667.

TABLE E. Grade Crossings—Concluded.

Dec. No.	App. No.	Applicant (and other parties)	Location	Action	Date
10556	7907	Pae. Elec. Ry Co.(City of Fullerton)	Bet. Common-wealth and Lawrence Aves.	Granted	June 8, 1922
10558	7909	Southern Pacific Co.(City of Dinuba)	"O" nr. Ventura street	Granted	June 8, 1922
10559	7910	Southern Pacific Co.(City of El Monte)	Tyler street	Granted	June 8, 1922
10568	7926	Santa Fe (Los Angeles County)	Slauson Ave. nr. Nadeau Sta.	Granted	June 9, 1922
10569	7828	Southern Pacific Co.(City of Bakersfield)	Haley street	Granted	June 9, 1922
10571	6492	Contra Costa County (Santa Fe)	E. of Antioch	Dismiss	June 9, 1922
10577	7717	Southern Pacific Co.(Town of Friant)	Park street	Dismiss	June 9, 1922
10597	7927	Sacramento Northern R.R.(Colusa Co.)	Near Colusa	Granted	June 16, 1922
10602	7652	San Joaquin County (Southern Pacific)	Laramie street nr. Stockton	Granted	June 22, 1922
10611	7887	Pacific Elec. Ry Co.(Los Angeles City)	E. 6th and San Pedro streets	Granted	June 22, 1922
10612	7943	Southern Pacific Co.(City of Oakland)	Fifth street near Cypress street	Granted	June 22, 1922
10613	7944	Southern Pacific Co.(City of Lodi)	Cherokee street	Granted	June 22, 1922
10626	7928	Sacramento Northern R.R.(Marysville)	J and 6th Sts.	Granted	June 24, 1922
10635	7962	Southern Pacific Co.(San Joaquin Co.)	Acampo	Granted	June 29, 1922
10636	7981	Stockton Terminal and Eastern R. R. (San Joaquin County)	Nr. Bellota	Granted	June 29, 1922
10637	7988	Southern Pacific Co.(Town of Vacaville)	Mason street	Granted	June 29, 1922
10638	2713	San Joaquin County (Southern Pacific)	Tulare Rd. Dist. nr. Lyoth	Granted	June 29, 1922
10648	7968	Santa Fe (City of San Diego)	Couts street	Granted	July 1, 1922
10649	7993	Southern Pacific Co. (San Bernardino County)	First street nr. Guasti	Granted	July 1, 1922
10650	7933	Santa Fe (City of San Diego)	Unnamed road nr. Bean street	Granted	July 1, 1922
10676	8012	Southern Pacific Co.(San Francisco)	Harrison street	Granted	July 7, 1922

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